

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

206

**CRM-M-25316-2021
Date of decision: 23.03.2022**

TASBIR SINGH ALIAS JASVIR SINGHPetitioner

Versus

STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Present : Mr. Neeraj Madaan, Advocate
for the petitioner.

Mr. V.G.Jauhar, Senior DAG, Punjab
for the respondent-State.

SANT PARKASH, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

Prayer in this petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner, in case, FIR No. 9 dated 27.02.2021 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Amir Khas, District Fazilka to which Section 29 of the NDPS Act was added later on.

As per the prosecution version, on 27.02.2021 the police party while on patrolling, near village Sher Mohammad Mahigir to Mahmu Joyian road, then two persons were coming on foot carrying polybags in their hands. The petitioner was carrying white polybag whereas, his co-accused Balwinder Singh was carrying black polybag.

On seeing the police party, both of them threw their polybags and tried to run towards the fields. Both the said persons were apprehended by the police. On search, recovery of 300 tablets of Tramadol was made from the white coloured polybag thrown by the petitioner and recovery of 310 tablets of Etizolam was recovered from the black coloured polybag thrown by his co-accused Balwinder Singh . Both the accused were arrested by the police and FIR was registered against them.

The petition has been opposed by learned State Counsel in terms of reply by way of affidavit of Vaibhav Sehgal, PPS, Deputy Superintendent of Police, Sub Division, Jalalabad.

I have heard learned Counsel for the parties and gone through the case file.

Learned Counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. The alleged recovery of 300 tablets of Tramadol effected from the white colour polybag thrown by the petitioner falls under the non-commercial quantity according to the schedule under the NDPS Act as weight of 300 Tramadol tablets is 100.25 gm which is less than commercial quantity of 250 grams. The alleged recovery of polybag neither belong to the petitioner nor was found from his conspicuous possession. No independent witness was joined to prove the alleged recovery at the spot. The mandatory provisions of the NDPS Act were not complied with. The petitioner is not involved in any other case. Challan in the present case has already been filed. The petitioner is in custody since 27.02.2021. Trial is likely to take long time. No useful purpose will be

served by keeping the petitioner in custody. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel has submitted that the petitioner is accused of having committed serious offences. In view of the nature of accusation and gravity of the offences, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

In the present case, the weight of 300 Tramadol tablets allegedly recovered from the petitioner is 100.25 grams which is less than the commercial quantity of 250 grams, as per the schedule under the NDPS Act.

Having considered the facts and circumstances of the case, recovery of the contraband is intermediate, falling under the non-commercial quantity, the period of custody of the petitioner, challan in the present case already been presented, custodial interrogation of the petitioner not required for effecting any recovery and the fact that the trial is likely to take long time due but without expressing any opinion on the merits of case, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

23.03.2022
kavneet singh

(SANT PARKASH)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No