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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-25720-2021
Date of decision: 14.02.2022**

KULWANT SINGH**...Petitioner**

Versus

STATE OF HARYANA**...Respondent****CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. Amit Choudhary, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 0038 dated 21.02.2020, registered under Sections 22(c), 22(b), 27A of the NDPS Act, 1985 at Police Station Sadar Ratia, District Fatehabad.

The first petition was dismissed on 15.12.2020, by passing the following order:-

“...Vide order dated 31.07.2020, the petitioner was granted concession of interim bail awaiting the FSL report with a clear condition that the said order shall automatically stand withdrawn and the petitioner shall surrender forthwith after the receipt of the FSL report. Later on, it was noticed on 09.09.2020 that FSL report is likely to be submitted and thereafter, on 02.12.2020, learned State counsel submitted that FSL report has been received. Despite that, till date, the petitioner has not surrendered.”

Learned counsel for the petitioner fairly concedes that petitioner has not yet surrendered and seeks some time to comply with the directions.

In view of the above, this Court finds no ground to extend the period of interim bail.

Accordingly, the present petition is dismissed.

However, liberty is granted to petitioner to file a fresh petition after he surrenders back before the jail authorities.”

Learned counsel for the petitioner further submits that the FIR was registered at the instance of SI Shadi Ram, who has stated that while on patrol duty, a motorcycle was seen coming and the motorcyclist became perplexed on seeing the police party and tried to turn the motorcycle, however, the motorcycle turned off and he was apprehended by the police party. The person disclosed his name as Kulwant Singh and 330.98 grams of *Tramadol Hydrochloride*, 64.96 grams of *Alprazolam* and 07 grams of *heroin* was recovered from him.

Learned counsel for the petitioner further submits that though it is a case of chance recovery, however, it will be a matter of trial whether an information was required to be sent in compliance of Section 42 of the NDPS Act.

Learned State counsel submits that in compliance of the notice under Section 50 of the NDPS Act, a Gazetted Office was called and the recovery was effected.

Learned State counsel has filed the custody certificate in Court and as per the same, petitioner is the first offender and is not involved in any other case under the NDPS Act, though he is involved in some cases under the Excise Act. The custody certificate further discloses that the

petitioner is in custody for the last about 01 year, 03 months and 17 days .

It is further stated by learned State counsel that out of 17 prosecution witnesses, only 01 prosecution witness has been examined so far.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that the petitioner is in long custody for the last about 01 year, 03 months and 17 days and out of 17 prosecution witnesses, only 01 prosecution witness has been examined so far, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

14.02.2022
Chetan Thakur

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No