

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

CRM-M-26524-2021 (O&M)

Date of decision : 06.01.2022

Kulwant Singh @ Kala

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Lakshay Bector, Advocate for the petitioner.

Mr. Abhay Pal Singh Gill, AAG Punjab.

ALKA SARIN, J. (ORAL)

Heard in virtual mode.

This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.161 dated 24.10.2020 under Sections 22, 25, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short the 'NDPS Act') registered at Police Station Dakha, District Ludhiana. The first bail petition of the petitioner being CRM-M-42007-2020 was dismissed as withdrawn on 19.01.2021.

Learned counsel for the petitioner would contend that the alleged recovery from the petitioner is 325 tablets of Tramadol. He would further contend that there is violation of Section 50 of the NDPS Act inasmuch as the person of the petitioner was searched by an ASI

(Investigating Officer) and not by a Gazetted Officer. Learned counsel for the petitioner has relied upon the orders dated 23.07.2021 and 01.12.2021 passed by this Court in ***CRM-M No.27074 of 2021*** titled as “***Shifali @ Punam Singh Vs. State of Punjab***” and ***CRM-M No.35834 of 2020*** titled as “***Amarjit Singh Vs. State of Punjab***”, respectively.

Learned counsel for the petitioner would further contend that there is no other case pending against the petitioner. The challan already stands presented and the petitioner has been in custody for a period of more than one year and three months.

Learned counsel for the State, on instructions, contends that though the challan has been presented, only 02 out of 11 prosecution witnesses have been examined. Learned counsel for the State is not in a position to deny that there is no other case pending against the petitioner. He submitted that the argument that the search was conducted by the Investigating Officer would be gone into at the time of trial and would not be a ground for grant of regular bail to the petitioner.

Heard.

In view of the above and considering the fact that the petitioner has been in custody for a period of more than one year and three months and the conclusion of the trial is likely to take some time, no useful purpose would be served by keeping the petitioner behind the bars any further.

Without commenting upon the merits of the case, I deem it a fit case to grant the concession of regular bail to the petitioner. The petitioner is

directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off.

06.01.2022
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO