

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-24047 of 2022

Date of Decision: 07.09.2022

Lovejeet Singh

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. Amit Rana, Sr. Deputy Advocate General, Punjab

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.100 dated 22.04.2015, under Section 22 of the NDPS Act and Sections 379, 411 of the IPC, registered at Police Station Sultanwind, District Amritsar City.

The learned counsel for the petitioner has submitted that the petitioner is in custody from 22.09.2021 which is almost one year. He further submitted that the present FIR is of the year 2015 and thereafter the petitioner was granted interim bail by the learned trial Court in the light of the judgment of the Division Bench of this Court in **Inderjeet Singh @ Laddi and others versus State of Punjab 2014 RCR (3) Criminal 953**, since the FSL report was not obtained. He submitted that the petitioner remained on interim bail for approximately six years and one month and he neither misused the concession of bail nor did he repeat the offence. It is

submitted that the FSL report was filed on 22.09.2021 when the charges were framed by the learned trial Court and therefore the petitioner surrendered before the learned trial Court. He submitted that it is the case where the allegations were that the petitioner was driving the motorcycle and co-accused who was the pillion rider was allegedly carrying 200 grams Alprazolam and the recovery was made from the pocket of the aforesaid co-accused and the petitioner had got nothing to do with the alleged recovery. He submitted that even the charges were framed about one year ago and only one prosecution witness has been examined so far. He further submitted that the FIR is of the year 2015 and in view of the aforesaid facts and circumstances, it is clear that the petitioner was falsely implicated in the present case particularly in view of the fact that he is not involved in any other case.

On the other hand, Mr. Amit Rana, learned Senior Deputy Advocate General, Punjab has submitted, on instructions from ASI Surjeet Singh, that the petitioner is in custody from 22.09.2021 when the charges were framed and the FSL report was filed. He has also submitted that it is correct that the petitioner is not involved in any other case and he remained on interim bail for more than six years and he has neither violated any of the terms of bail nor did he repeat the offence.

On being query raised to learned State counsel as to why the State has been delaying in presenting the FSL report for almost six years, he could not give any explanation or justification in this regard, although he stated that repeated reminders were sent to the FSL.

I have heard the learned counsel for the parties.

The confiscated quantity recovered from the co-accused was 200 grams of Alprazolam. Since the confiscated quantity falls within the category of commercial quantity, it is necessary to consider the bar contained under Section 37 of the NDPS Act, 1985 as to whether the same will apply in the present case or not. The fact of the present case alleged that the present FIR was registered in the year 2015 and the petitioner remained on interim bail for more than six years and as per the learned counsel for the parties he did not violate any of the conditions of the interim bail nor did he commit any offence and apart from the same the petitioner is not involved in any other case. Thereafter he himself surrendered before the Court when the FSL report was received and submitted before the Court on 22.09.2021 when the charges were framed. Furthermore, no justification or reason has come forth from the learned State counsel as to why even for the last one year only one prosecution witness has been examined and the trial has been delayed. The petitioner was stated to be driving the motorcycle and recovery was made from the pocket of the person who was the pillion rider.

In view of the aforesaid facts and circumstances, this Court has therefore reason to believe at least at this stage that the petitioner is not guilty of any offence. Apart from the fact that the petitioner is not involved in any other case and has not repeated the offence as per learned counsel for the parties and therefore the second ingredient for making the departure from Section 37 of the NDPS Act will also remain satisfied. Furthermore, it is not the case of the State nor it has been argued by the learned State counsel that in case the petitioner is released on bail, then he may abscond from justice or influence any witness and tamper with any evidence, therefore bar under Section 37 of the Act will not be

attracted in the present case.

In view of the aforesaid position, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

(JASGURPREET SINGH PURI)
JUDGE

September 07, 2022
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No