

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

CRM-M-27293-2020 (O&M)
Date of decision: 28.04.2022

Rakib Ali

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Sandeep Verma, Advocate for the petitioner.

Mr. Ajay Pal Singh Gill, DAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

The petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No. 254 dated 24.09.2019, registered under Sections 22 and 29 of the NDPS Act, at Police Station City Rajpura, District Patiala.

Custody certificate dated 27.04.2022 issued by the Additional Superintendent, Central Jail, Patiala, submitted by the learned State counsel in the Court, is taken on record.

Learned counsel for the petitioner submits that as per the story of the prosecution, two persons i.e. the petitioner and co-accused Nadeem were carrying black colour plastic bags and on seeing the police party, they threw their bags and started running away; that on suspicion, they were apprehended and total 6000 tablets of Alprasafer, i.e. 3600 and 2400 from the bags thrown by the petitioner and the co-accused respectively, were recovered; that the story of the prosecution is not believable, as the alleged recovery is shown to have been effected from a public place, but no independent witness was

joined; that the mandatory provisions of Section 50 of the NDPS were not complied with; that as far as other cases under the NDPS Act and IPC are concerned, the petitioner is on bail in those cases and that the petitioner has been in custody since 24.09.2019. He also submits that when the samples were sent to the FSL, the same did not contain any batch number and only the homogenous mixture was required, but the same was not done.

In support of his case, learned counsel for the petitioner relies upon the orders 19.11.2019, 07.02.2020, 19.11.2020, 19.07.2021, 02.09.2021, 10.09.2021 and 14.12.2021, passed by Coordinate Benches, in CRM-M-29004-2019 titled as Amandeep Kaur @ Kalo Vs. State of Punjab, CRM-M-2396-2020 titled as Rajwinder Singh @ Raju Vs. State of Punjab, CRM-M-14595-2020 titled as Sharna Ram Vs. State of Punjab, CRM-M-16150-2021 titled as Balwinder Singh Vs. State of Punjab, CRM-M-35056-2020 titled as Gurpreet Singh @ Preet Vs. State of Punjab, CRM-M-40614-2020 titled as Sandeep Singh @ Seepa Vs. State of Punjab, and CRM-M-35372-2020 titled as Rohit Soni Vs. State of Punjab.

On the other hand, learned State counsel, while referring to the status report and the custody certificate, contends that the petitioner is a habitual offender and a person of criminal antecedents, inasmuch as, two other criminal cases i.e. one under the NDPS and another under the IPC stand already registered against the petitioner; that the recovery effected from the petitioner falls under the commercial quantity and that the petitioner being a person of criminal antecedents and having actively participated in the crime is not entitled to the concession of regular bail. It is further submitted that if released on bail, the petitioner would again involve himself in similar other crimes. Para No. 6 of the status report dated 12.03.2021 would read as under:-

“6. That the learned counsel for the petitioner has wrongly alleged before this Hon’ble Court that when the samples were sent to the FSL, the same was not containing any batch number on it, whereas, in the FSL report, it has been clearly mentioned at Para No. 6 (Annexure R-2) that Parcel No. 1- Sixty (60) tablets of peach colour packed in strips Each strip was labeled as ‘ALPRASAFE-0.5’. So, the plea taken by the counsel of the petitioner is incorrect and even the batch number has been clearly mentioned in FIR (Annexure P-1)”.

Having heard learned counsel for the parties, I find no merit in the present petition and the same is liable to be dismissed.

The FIR in this case was registered on 24.09.2019. The petitioner has been in custody since 24.09.2019. The recovery effected in the present case is of 6000 of tablets of Alprasaft. As per the prosecution, the petitioner along with co-accused has been found to have actively participated in the commission of crime with the co-accused.

The argument of the learned counsel for the petitioner to release the petitioner on bail due to custodial period, is not worth consideration, in view of the order dated 29.10.2021 of the Hon’ble Supreme Court in Special Leave to Appeal (Crl.) No. 5507/2020 – Jamshed Alam @ Jamshere Alams Vs. The State of Jharkhand, wherein the accused was granted bail after custody period of more than three years.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

(HARNARESH SINGH GILL)
JUDGE

28.04.2022

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No