

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

CRM-M-37947-2021 (O&M)

Date of decision : 07.03.2022

Punjab Singh

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Gagandeep Singh, Advocate for
Mr. A.S. Manaise, Advocate for the petitioner.

Mr. H.S. Multani, AAG Punjab.

ALKA SARIN, J. (ORAL)

Heard in virtual mode.

The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.3 dated 10.01.2015 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short the 'NDPS Act') registered at Police Station Kathu Nangal, Amritsar Rural, District Amritsar.

Learned counsel for the petitioner would contend that as per the prosecution case, the petitioner was apprehended with 200 grams of intoxicant powder (Alprazolam). Learned counsel for the petitioner would further contend that the petitioner was released on interim bail vide order dated 17.03.2015 awaiting the FSL Report. The challan was thereafter filed after a long period of four years. The petitioner has been in custody since 25.08.2021. Learned counsel for the petitioner would further contend that there is a total non-compliance of Section 50 of the NDPS Act inasmuch as

the provisions thereof were not complied with at the time of personal search of the petitioner.

Notice of motion.

On the asking of the Court, Mr. H.S. Multani, AAG Punjab accepts notice on behalf of the respondent-State and has filed the custody certificate dated 05.03.2022 by way of affidavit of Sh. Surinder Singh, Superintendent of Central Jail, Amritsar, the same is taken on record.

Learned counsel for the State on instructions from ASI Naresh Kumar though is not in a position to deny that personal search of the petitioner was conducted, however, it has been stated that since it was a case of chance recovery, hence, applicability of provisions of Section 50 of the NDPS Act would not be applicable.

Heard.

In the present case, the petitioner is a first time offender and he has been in custody for a period of 8 months and 18 days. Though a personal search of the petitioner was conducted, admittedly there seems to have been no compliance of Section 50 of the NDPS Act. It would be a debatable question whether the provisions of Sections 50 of the NDPS Act would apply in the present case.

In view of the above and considering the fact that the petitioner is a first time offender and has been in custody for a period of 8 months and 18 days and the trial is likely to take some time to conclude, 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 this to be 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.

(ALKA SARIN)
JUDGE

07.03.2022
Yogesh Sharma

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