

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

**CRM-M-39003-2021 (O&M)
Date of decision : 01.06.2022**

Sarabjit Singh alias Shaba

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Gurpal Kaur Dulat, Advocate for the petitioner.

Mr. Dhruv Dayal, Senior DAG Punjab.

ALKA SARIN, J. (ORAL)

This is the second petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.62 dated 12.07.2019 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'NDPS Act') registered at Police Station Kalanaur, District Gurdaspur. The first petition filed by the petitioner being CRM-M-14946-2020 was dismissed as withdrawn on 29.06.2020.

Learned counsel for the petitioner would contend that the petitioner has falsely been involved in the present case and that even otherwise there has been no compliance of the mandatory provisions of Section 50 of the NDPS Act. Learned counsel for the petitioner would further contend that as per the custody certificate, though it has been

reflected that the petitioner is involved in two other cases, however, in one case cancellation report has been filed and in the second case the petitioner was convicted and has already undergone the sentence.

Learned counsel for the State has referred to the status report filed by way of an affidavit of Sh. Gurinderpal Singh, PPS, Deputy Superintendent of Police, Kalanaur, District Gurdaspur wherein it has been stated that the petitioner was apprehended during checking in village Agwan near minor canal bridge. The petitioner, on seeing the Police party, started throwing some articles from his bag and was apprehended. Thereafter, SI Davinder Singh along with ASI Satnam Singh went to the spot and on checking, 30 packets of intoxicant capsules make Parvorin SPAS Tramadol having written Ridley over it, total of 3000 intoxicant capsules, 2240 tablets of Alprazolam (Alprest) and 4680 tablets of Alprazolam (Alprafresh) were recovered. Learned counsel for the State would further contend that recovery in the present case falls under the category of heavy commercial quantity and the bar of Section 37 of the NDPS Act would come into play. Without admitting the contention of learned counsel for the petitioner, learned counsel for the State contends that even otherwise it is a case of chance recovery and, hence, there would be no applicability of Section 50 of the NDPS Act.

Heard.

In the present case, the petitioner herein has been apprehended with huge commercial quantity of intoxicant tablets i.e. 30 packets of intoxicant capsules make Parvorin SPAS Tramadol having written Ridley

over it, total of 3000 intoxicant capsules, 2240 tablets of Alprazolam (Alprest) and 4680 tablets of Alprazolam (Alprafresh). The bar of Section 37 of the NDPS Act would be applicable in the present case. The question whether there has been any compliance of Section 50 of the NDPS Act or whether it was a case of chance recovery would be a matter which can be gone into at the time of trial.

In view of the above, I do not find this to be a fit case for grant of regular bail to the petitioner. The present petition is, accordingly, dismissed.

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.

Dismissed. Pending applications, if any, also stand disposed off.

01.06.2022
Yogesh Sharma

(ALKA SARIN)
JUDGE

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