

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-36078-2022

Date of Decision:-02.12.2022

Inderjeet Singh.

.....**Petitioner.**

Versus

State of Punjab.

.....**Respondents.**

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Guninder Singh Brar, Advocate for the Petitioner.

Ms. Ramta Chowdhary, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J. (ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.42 dated 25.05.2022 under Sections 22(b) NDPS Act, 1985 registered at Police Station Lakhewali, District Sri Muktsar Sahib.

The brief facts of the case are that while the police party was on patrolling duty, a motor cycle make Splendor Plus bearing registration number PB-30F-1997 was seen coming from village Lakhewali. On seeing the police party the person got frightened and tried to turn the motor cycle back. The bike got unbalanced and fell on the mud along the road. A polythene bag hanging on the motor cycle also fell down and some strips of tablets came out of it. On being apprehended the driver of the motor cycle

disclosed his name as Samandeep Singh @ Nikdu. The pillion rider disclosed his name as Inderjeet Singh son of Darshan Singh (present petitioner). After complying with the provisions of the NDPS Act regarding search and seizure the recovery of 180 tablets of Etizolam was effected.

The Counsel for the petitioner contends that the the petitioner was a pillion rider and could not be said to be in conscious possession of the contraband. In fact he had taken a lift from Samandeep Singh @ Nikdu from the neighbouring village and did not have any knowledge regarding him carrying some contraband in a polythene bag on his motor cycle. The petitioner was a first time offender and is in custody since 25.05.2022. As many as 22 witnesses have been cited in the list of witnesses and none had been examined so far. Therefore, the Trial of the present case was not likely to be concluded any time soon and as such the further incarceration of the petitioner is not required.

The Counsel for the State on the other hand contends that the petitioner was apprehended along with one Samandeep Singh @ Nikdu and the recovery of 180 tablets of Etizolam has been effected from the accused. Since the recovery is of the commercial quantity, the petitioner was not entitled to the grant of bail.

I have heard learned Counsel for the parties at length.

Admittedly, the petitioner is in custody since 25.05.2022 and none of the 22 cited prosecution witnesses have been examined so far. This Court in the case of ***Ravinder Singh @ Binder Vs. State of Punjab CRM-M-19948-2022*** Decided on ***30.05.2022*** has held that in case where a bag in which the contraband was contained was in possession of the driver of the motor cycle, it would be a matter of adjudication during trial as to whether

the petitioner was in conscious possession of the same or not. Admittedly the petitioner is a first time offender with no other case registered against him under the NDPS Act. Therefore, at this stage, the conditions under Section 37 of the NDPS Act can be relaxed to an extent on account of the attending facts and circumstances as narrated hereinabove.

Thus, without commenting on the merits of the case, the petitioner-**Inderjeet Singh** son of Sh. Darshan Singh is ordered to be released on bail subject to the satisfaction of learned CJM/Duty Magistrate, concerned.

The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing that he is not involved in any other crime other than the present case.

(JASJIT SINGH BEDI)
JUDGE

December 02, 2022
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>