

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-40511-2021

Date of Decision: 09.02.2022

Gursewak Singh

....Petitioner

VS

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Impinder Singh Dhaliwal, Advocate
for the petitioner

Mr. Kanishth Ganeriwala, AAG Punjab

SUDHIR MITTAL, J. (Oral)

The petitioner seeks grant of regular bail in case FIR No. 0051 dated 03.03.2021 registered at Police Station Lambi, District Sri Muktsar Sahib under Section 22(c) of the NDPS Act, 1985.

According to the contents of the FIR, 1000 tablets of Tramadol which amounts to commercial quantity were recovered from a polythene bag kept between the rider of the motorcycle and the pillion. On seeing the police the same was thrown on the road side. The petitioner was the rider.

Learned counsel for the petitioner has argued that no recovery has been made from the conscious possession of the petitioner. Further, as per the FIR the polythene bag was transparent and the time of recovery was 11.15 p.m. on 03.03.2021. Availability of torch/flash light has not been recorded and, thus, it is not understandable how the police was able to see the said polythene bag. A false case has been foisted upon the petitioner.

Custody certificate dated 08.12.2021 shows that the petitioner had

been in custody for 6 months and 24 days as on date of the said certificate. Since

then period of two more months has elapsed and as on date he has been in custody for 8 months and 24 days. There is another case under the NDPS Act, 1985 pending against the petitioner in which he has been granted bail. No other criminal case is pending against the petitioner.

Learned State counsel submits that commercial quantity of contraband was recovered from the petitioner and one more case under the NDPS Act, 1985 is pending against him. Thus, it can not be safely said that he would not indulge in any other criminal activity after being released on bail. Still further, it has not been shown that the petitioner is likely to be acquitted during the trial. Thus, he does not deserve the concession of regular bail.

Section 37 of the NDPS Act, 1985 lays down twin conditions for grant of bail. The first condition is a satisfaction of the Court that the accused is not likely to commit any other offence after being released on bail and the second condition is that he is likely to be acquitted.

The fact that another case under the NDPS Act, 1985 is pending against the petitioner gives rise to an apprehension that if he is granted regular bail he may indulge in crime once again. The argument that a false case has been foisted upon the petitioner can not be accepted, on the face of it as the same is a matter of evidence. Thus, as on date it can not be stated with any amount of certainty that the petitioner is likely to be acquitted.

For the aforementioned reasons, the bail petition is dismissed.

(SUDHIR MITTAL)
JUDGE

09.02.2022

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Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No