

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

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CRM-M-39125-2022

Date of decision : 07.12.2022

Jasbir Singh @ Jassi

Petitioner

V/S

State of Punjab

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Aditya Dassaur, Advocate for the petitioner.

Mr. Jaspal Singh Guru, Asstt. A.G., Punjab.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.187 dated 02.11.2018 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station City-2, Khanna, District Ludhiana.

Brief facts of the case are that on 02.11.2018, ASI Jagtar Singh along with other police officials was present in front of Green Land G.T. Road for patrolling duty. They saw 02 young boys coming on motorcycle, kept one black coloured heavy bag between them, from Khanna side and on seeing the police party they tried to turn back. The police apprehended them and on search 18 intoxicant bottles of 100 ml each containing salt Codeine Phosphate and 6000 tablets containing salt Diphenoxylate were recovered from the bag kept by them.

Learned counsel for petitioner submits that the petitioner has been falsely implicated in the present case. In fact the petitioner has not supported the Panchayat Election and rival party has falsely

implicated him in the present case with the connivance of the police. The petitioner has nothing to do with the alleged recovery. No independent witness was joined by the police at the time of alleged recovery. The police has not complied with mandatory provisions of NDPS Act. The alleged recovery was sent for FSL after the gape of 20 days and there is no explanation regarding that. The petitioner is not involved in any other case. Earlier the petitioner was granted interim bail by the trial Court. The petitioner never misused the concession of interim bail. The petitioner is in custody since 23.05.2022. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be released on regular bail.

On the other hand learned State counsel opposes the present petition on the ground that the huge quantity i.e. 18 intoxicant bottles of 100 ml each containing salt Codeine Phosphate and 6000 tablets containing salt Diphenoxylate, which falls in the category of commercial quantity, were recovered from the conscious possession of the petitioner and his co-accused without any license or permit. Therefore, the petitioner is not entitled for bail.

Custody certificate dated 06.12.2022 has been filed by learned State counsel in the Court today which is taken on record. As per the custody certificate the petitioner is in custody since the last more than 06 months.

I have heard learned counsel for the parties and gone through the paper-book.

The Hon'ble Apex Court in case ***State of Punjab Vs. Baldev Singh : 1999 AIR SC 2378*** has observed regarding Drug Addiction, Drug abuse and its effect on the society. The Hon'ble Apex Court in para No.3 has observed as under:-

“3. Drug abuse is a social malady. While drug addition eats into the vitals of the society, drug trafficking not only eats into the vitals of the economy of a country, but illicit money generated by drug trafficking is often used for illicit activities including encouragement of terrorism. There is no doubt that drug trafficking, trading and its use, which is a global phenomena and has acquired the dimensions of an epidemic, affects the economic policies of the State, corrupts the system and is detrimental to the future of a country. It has the effect of producing a sick society and harmful culture. Anti-drug justice is a criminal dimension of social justice. The United Nations Conventions Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances which was held in Vienna, Australia in 1988 was perhaps one of the first efforts, at an international level, to tackle the menace of drug trafficking throughout the comity of nations. The Government of India has ratified this convention.”

The aforesaid ratio of law has also been reiterated by the Hon'ble Supreme Court recently in ***Sri Thaha Ummer Vs. Union of India, Criminal Petition No.9450/2022 decided on 09.11.2022.***

Keeping in view the facts and circumstances of the case, evidence against the petitioner and the fact that the alleged contraband recovered falls under the category of 'commercial' quantity which attracts rigors of Section 37(1)(b) of the NDPS Act but without commenting upon the merits of the case, I am of the considered view that the petitioner does not deserve the concession of regular bail.

In view of the above, the present petition is dismissed.

07.12.2022

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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No