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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.43255 of 2021 (O&M)
Date of Decision: 08.09.2022

SUKHWINDER SINGH @ SUKHA

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. L.S. Lakhanpal, Advocate
for the petitioner.

Mr. R.S. Pandher, Sr. D.A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail in his second attempt under Section 439 Cr.P.C in case bearing FIR No.306 dated 05.12.2017 registered under Section 22 of the NDPS Act, Police Station Adampur District Jalandhar.

Learned counsel for the petitioner submits that petitioner was granted interim bail in terms of ratio of **Inderjeet Singh @ Laddi vs State of Punjab and others, 2014(3) RCR (Criminal) 953**. Petition under Section 438 Cr.P.C. i.e. CRM-M No.20846 of 2018 was got dismissed as withdrawn with a liberty to the petitioner to surrender before the trial Court and apply for

regular bail. Thereafter CRM-M No.28720 of 2021 was filed by the petitioner without approaching the trial Court in pursuance of order dated 16.05.2018 passed in CRM-M No.20846 of 2018. Vide order dated 29.07.2021, CRM-M No.28720 of 2021 was also got dismissed as withdrawn with a liberty to the petitioner to approach the Court of Sessions at the first instance. Thereafter prayer for regular bail was dismissed by the Judge, Special Court, Jalandhar vide order dated 13.09.2021 and that is how the petitioner has filed this petition.

Learned counsel for the petitioner submits that as per FIR 110 grams of narcotic substance containing Alprazolam was allegedly recovered from the petitioner. The petitioner is in custody since 13.05.2019 i.e. for the last more than three years.

Learned counsel for the petitioner by relying upon **Shinda vs. State of Punjab, 2013(3) R.C.R. (Criminal) 557** and **Lakhwinder Singh @ Bittu vs. State of Punjab, 2012(22) R.C.R. (Criminal) 301,** further submits that the prayer for the grant of regular bail can be considered as the alleged recovery is slightly more than the quantity prescribed for commercial quantity.

Learned counsel further by relying upon the order dated 22.08.2022 passed by the Hon'ble Apex Court in **Special Leave**

to Appeal (Crl.) No.5530 of 2022 titled 'Mohammad Salman Hanif Shaikh vs. The State of Gujarat'; order dated 04.08.2022 passed by the Hon'ble Apex Court in Special Leave to Appeal (Crl.) No.4173 of 2022 titled 'Shariful Islam @ Sarif vs. The State of West Bengal'; order dated 09.08.2022 passed in CRM-M No.34236 of 2022 titled 'Buta Singh @ Butta Singh vs. State of Haryana' and order dated 23.08.2022 passed in CRM-M No.33355 of 2021 titled 'Mintu vs. State of Haryana' further submits that in case of long custody of the accused/petitioner, the prayer for regular bail can be accepted, leaving the question (whether recovery of contraband is of commercial quantity or otherwise) to be considered by the trial Court at the relevant stage in accordance with law and material on record.

Learned State counsel has informed the Court that out of total 14 prosecution witnesses, 6 witnesses have already been examined and now the case is fixed for 21.09.2022. Learned State counsel also relies upon the antecedent behaviour of criminal activities of the petitioner as he was involved in 11 criminal cases.

Learned counsel for the petitioner submits that the petitioner has been acquitted in 5 cases. Only 3 cases are in trial and in the cases in which the petitioner was convicted, he

has successfully secured suspension of sentence by the Court.

At this stage, without meaning anything on the merits of the case and keeping in view the period of custody of the petitioner which is more than 3 years as of now, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

September 08, 2022	(RAJ MOHAN SINGH)
<i>Atik</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No