

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-43241-2022 (O&M)
Date of Decision:-23.9.2022

Mohammad Shakir	Versus	... Petitioner
State of Punjab		... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Liaqat Ali, Advocate for the petitioner.

Mr. Siddharth Attri, AAG, Punjab,
assisted by ASI Sukhpal Chand.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.147, dated 23.06.2022, Police Station Sadar Nabha, District Patiala, under Sections 22/61/85 of NDPS Act.
2. The case of the prosecution is that pursuant to receipt of secret information, the police apprehended Mohammad Shakir (petitioner) and one Ashish Kumar and from their conscious possession, 10500 tablets were recovered. It is further the case of the prosecution that during the course of interrogation, the petitioner Mohammad Shakir made a disclosure statement to the effect that they had procured the said tablets from one Mohammad Kamil. Pursuant to disclosure statement made by petitioner Mohammad Shakir, the police arrested Mohammad Kamil and upon his disclosure statement 60000 tablets of 'Alprsafe' were recovered.

3. The learned counsel for the petitioner has submitted that even if the case of the prosecution regarding receipt of secret information and arrest thereafter of the petitioner in the manner as stated, is taken to be correct, still the petitioner cannot be said to be in possession of any contraband inasmuch as upon analysis of the samples of tablets drawn from the recovered 10500 tablets from the petitioner and co-accused Ashish Kumar, the same were not found to contain any contraband but were found to be containing 'Chlorpheniramine Maleate', which does not fall in the category of psychotropic or narcotic substance. Learned counsel has further submitted that the petitioner cannot be attributed conscious possession of any contraband recovered from co-accused Mohammad Kamil, who was apprehended later, and that since the petitioner has a clean record, he deserves to be released on regular bail.
4. Opposing the petition, learned State counsel submitted that since it was pursuant to disclosure statement made by the petitioner that Mohammad Kamil was arrested and from whose possession a huge quantity of contraband i.e. 60000 tablets of 'Alprazole' containing 'Alprazolam' were recovered, his complicity is clearly evident. The learned State counsel has, however, informed that the petitioner has been behind bars since the last about 2 months and 25 days and otherwise is not involved in any other case.
5. This Court has considered the rival submissions.
6. It is not in dispute that when petitioner was arrested and some tablets were recovered from him but the said tablets were not found to contain any psychotropic substance or any narcotic. Though the petitioner may be connected with the remaining accused who were later arrested and found in

possession of contraband but at this stage, this Court would not like to express anything as regards merits of the case given the fact that the petitioner has a clean record and is not stated to be involved in any other case. In these circumstances, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

23.9.2022

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No