

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

CRM-M-50512-2021
Date of Decision:-**11.10.2022**

JAGSIR SINGH @ SONI

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Balbir Kumar Saini, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

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KARAMJIT SINGH, J. (Oral)

Prayer is for grant of regular bail in case having FIR No.112 dated 5.6.2021 registered under Section 22 NDPS Act at Police Station City South District Moga.

The counsel for the petitioner submits that the petitioner has been falsely implicated in the present case; that as per the allegations appearing on the record, the police apprehended the petitioner and recovered 21 strips each having 10 tablets branded as Etizolam Mouth Dissolving Tablets ETM-0.5 B. No.2101011 MFG Date 01/2021 Exp. Dated 12/2022. Counsel for the petitioner submits that as per the prosecution one of the said

strips containing 10 tablets was separated as a sample and sent for analysis to FSL and report of FSL has been received. The counsel for the petitioner further submits that as per the said report of FSL dated 12.7.2021, the strip containing 10 tablets was not bearing any batch number, date of manufacture and expiry date, thus making it clear that none of the strips containing 10 tablets each recovered at the spot from the petitioner was sent for analysis to the FSL. The counsel for the petitioner further contends that thus the entire process of recovery has been vitiated. The counsel for the petitioner further contends that even otherwise the petitioner is in custody for the last more than 1 year and 4 months and is not involved in any other criminal case under the NDPS Act and that the trial is not progressing further and as such the petitioner is entitled to grant of regular bail.

The instant petition is contested by the State counsel, who submits that the 21 strips containing Etizolam Muoth Dissolving Tablets ETM-0.5 were bearing batch number, manufacturing and expiry date and one of the said strip was separated as sample, which was properly sealed in presence of the Magistrate and was sent for its analysis to the FSL. The State counsel further submits that the seal on the said sample was found to be intact as is evident from the report of FSL. The State counsel further submits that batch number, manufacturing and expiry date of the said tablets may have not been recorded in the report of FSL due to oversight and as such the said deficiency/discrepancy is not fatal to the case of prosecution. The State counsel further submits that the total quantity of the contraband recovered in the present case falls under commercial quantity and as such embargo provided under Section 37 of NDPS Act is applicable to the case of

the petitioner and resultantly he is not entitled to grant of bail at this stage when the trial is under progress.

I have considered the submissions made by counsel for the parties.

As per the prosecution version 21 strips each having 10 tablets branded as Etizolam Mouth Dissolving Tablets ETM-0.5 B. No.2101011 MFG Date 01/2021 Exp. Dated 12/2022 were recovered from the possession of the petitioner by the police on 5.6.2021 and out of the same one strip was sent as a sample for its analysis to the office of FSL. As per copy of the report of FSL dated 12.7.2021, one sealed parcel was received by the said laboratory and on opening the same it was found to be containing one strip having 10 tables having ETM-0.5, however the report of FSL is silent as to whether any batch number, manufacturing date and expiry date was written on the said sample strip containing 10 tablets. Thus making it doubtful as to whether the said report of FSL is relating to 21 strips each containing 10 tablets of Etizolam Mouth Dissolving Tablets ETM-0.5 B. No.2101011 MFG Date 01/2021 Exp. Dated 12/2022. Further there is nothing on the record to show that the petitioner is likely to commit any such offence in future while on bail.

In the present case, the petitioner is in custody for the last more than 1 year and 4 months and is not involved in any other criminal case under NDPS Act as is evident from the custody certificate dated 8.10.2022, which is furnished by the State counsel.

In view of the above, this Court is of the view that parameters of bail available under Section 37 of NDPS Act appear to have been satisfied in

the present case. Consequently, without commenting on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

11.10.2022
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No