

207 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-54058-2021
Decided on : 23.08.2022

Gobind Singh @ Lala

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. P.S.Sekhon, Advocate
for the petitioner.

Mr. Maninder Singh, DAG, Punjab.

Manjari Nehru Kaul, J.(Oral)

This is the second petition filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.273 dated 29.09.2020 under Sections 22, 25 and 29 of NDPS Act registered at Police Station Bhawanigarh District Sangrur.

Learned counsel for the petitioner submits that subsequent to the withdrawal of previous petition on 22.02.2021 (Annexure P-5), not only have the charges been framed but four prosecution witnesses including the investigating officer stand examined.

Learned counsel has vehemently argued that on the face of it, it is a case of false implication, which is evident from the following facts:

While drawing the attention of this Court to the FIR in question (Annexure P-1) he submits that it was an admitted case of the prosecution that pursuant to a secret information received at 5.40 pm on 29.09.2020 that the petitioner was carrying heavy quantity of intoxicants, a naka was laid and he was apprehended along with 6100 tablets of Alprazolam and 9300

tablets of Taramadol, which were lying in his car. Learned counsel submits that even though a secret information was received at about 5.40 pm, however, no compliance of mandatory provisions of Sections 42 or even 50 of the Act were made. He further submits that the said fact qua non-compliance of Sections 42 and 50 of the Act was even conceded by the Investigating Officer during his deposition when he stepped into the witness box as PW-2. In support of his submissions, he has drawn the attention of this Court to the depositions of both ASI Gurbhej Singh and SI Amrik Singh as PW-1 and PW-2, which have been produced before this Court today.

Learned counsel further submits that there is a history of animosity between a close relative of the petitioner and the investigating officer, which was one of the reasons behind the false implication of the petitioner in the case in hand. He submits that the factum of petitioner being falsely implicated in the case in hand is further fortified from the fact that he is a goldsmith having clean antecedents and is not involved in any other criminal case much less under the NDPS Act.

A prayer, therefore, has been made to extend the concession of bail to the petitioner as he has now been in custody for almost 1 year 11 months having been arrested on 29.09.2020.

Per contra, learned State counsel while opposing the prayer made by the counsel opposite, on instructions submits that the recovery of 6100 tablets of Alprazolam and 9300 tablets of Taramadol affected from the petitioner falls under the commercial quantity and hence, he be not extended the concession of regular bail. On a pointed query put to the State counsel, he on instructions has not been able to dispute that the mandatory provisions

of Section 42 and 50 of the Act were not complied in the instant case and the search was carried out by the investigating officer himself. He has also not disputed the submissions made by the counsel for the petitioner that the petitioner is not involved in any other criminal case much less under the NDPS Act. He however, submits that the mandatory provisions of Sections 42 and 50 of the Act were not complied with as the contraband was found in the car driven by the petitioner. Learned counsel for the State has thus, not been able to controvert the submissions made by the counsel opposite that the mandatory provisions of the NDPS Act were not complied with in the case in hand.

Heard learned counsel for the parties and perused the relevant material on record.

In the facts and circumstances as enumerated hereinabove coupled with the fact that the petitioner has been in custody since 29.09.2020 and 8 prosecution witnesses remain to be examined, this Court deems it fit to extend the concession of bail to the petitioner, who as conceded by the State counsel as well is not involved in any other case. Accordingly, the present petition is allowed. The petitioner be admitted to bail to the satisfaction to the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

23.08.2022
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No