

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52557-2022

Date of decision : 18.11.2022

Rommy @ Rommy Dawer

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Ambanshu Saini, Advocate for
Mr. Armaan Gagneja, Advocate
for the petitioners.

Mr. Arun Gupta, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.246, dated 17.09.2022, registered for the offence punishable under Section 22(B) of NDPS Act, at Police Station City Malout, District Sri Muktsar Sahib.

2. As per the allegations levelled in FIR, it has been alleged as under:-

“During checking, we were going from Super Bazar, Gurdwara Road to Sekhu Road, Malout and when the police party reached Sekhu Road, near Enclave Colony Malout, then on the left side at some open place, four young men were checking a transparent polythene bag, who on seeing the police party's car, tried to flee from the spot, who were nabbed by myself with the help of my colleagues, and asked their names and address, on which they introduced themselves as Shiva Sharma son of Rakesh Sharma resident of Block KG-3, house no. 181. PS

Vikaspuri, New Delhi, Rommy Dower son of Raj Kumar R/o near DAV College Camp. Malout, Bhim Sen son of Daulat Ram R/o Kachi Mandi, Chaudhary wali gali, Malout and Money Randhawa alias Aman son of Gurdeep Randhawa R/o Bohar wali gali, Bhikhi, District Mansa presently at Block no. 21, house no. 669, Kalka GD Flat, New Delhi. White color intoxicant substance was clearly visible from their transparent polythene. As ASI was of local rank, I could not investigate as per NDPS Act, so a regular NGO be sent to the spot. I along with my companions are looking after polythene bag containing intoxicating substance and nabbed the youngsters at the spot. The written information is sent to the police station thru PHG Suraja Ram no. 12079.”

3. Counsel for the petitioner submits that even the prosecution is not certain as to from whom recovery has been made. Further submits that keeping in view the quantity of the contraband recovered, rigors of Section 37 of NDPS Act will not be attracted.

4. Custody certificate has been placed on record. As per the same, the petitioner has undergone actual custody of 01 month and 28 days.

5. Mr. Gupta does not dispute that the contraband being far less than the commercial quantity, rigors of Section 37 will not be attracted. He is not in a position to controvert the plea raised by counsel for the petitioner that from the allegations levelled in the FIR, role of any of the accused is not certain.

6. Be that as it may, further without commenting further on the merits of the case and keeping in view the incarceration already suffered

by the petitioner and the fact that the investigation already stands concluded, report under Section 173 Cr.P.C. stands filed, present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

7. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

18.11.2022

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No