

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(209)

CRM-M-1415 of 2022
DATE OF DECISION:-28.02.2023

Ishu Singh @ Baru

...Petitioner

vs.

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Ankit Grewal, Advocate, for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

HARKESH MANUJA, J.

By way of present petition filed under Section 439 of the Code of Criminal Procedure, 1973, petitioner prays for grant of regular bail in case FIR No.99 dated 01.07.2021 under Sections 22/26/85 of NDPS Act, registered at Police Station Bhikhi, District Mansa (Annexure P-1).

The allegations levelled against the petitioner are that he was carrying 1100 tablets of Alprazolam when he was apprehended by the police party near small bridge Paca Link Road Village Luluana to Village Bappiana, Kishangarh Farwahi.

Learned counsel for the petitioner submits that the investigation in the present case already stands concluded with the filing of *challan* followed by framing of charges and only two out of 11 witnesses have been examined by the prosecution, so far. He further submits that the petitioner is already behind the bars for the last about 1 year and 8 months now and there is violation of mandatory provisions of Section 42 and 50 of the NDPS Act, thus, the petitioner deserves concession of regular bail.

On the other hand, learned State counsel opposes the prayer made

herein while submitting that petitioner was carrying commercial quantity.

I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

Considering the fact that petitioner has already suffered incarceration for a period of 1 year, 8 months now and the trial is likely to take some time as only 2 out of the 11 witnesses as cited by the prosecution have been examined so far. Besides, there is no other case of similar nature pending against the petitioner. Reliance can be placed upon the law laid down by Hon'ble the Supreme Court in "Special Leave to Appeal (Crl.) No.5530/2022, titled as "***Mohammad Salman Hanif Shaikh vs. The State of Gujrat***", Special Leave to Appeal (Crl.) No.4173/2022, titled as "***Shariful Islam @ Sarif vs. The State of West Bengal***" and Special Leave to Appeal (Crl.) No.5769/2022, titled as "***Nitish Adhikary @ Bapan vs. The State of West Bengal***". Thus, the petitioner deserves the concession of regular bail.

Without commenting anything on the merits, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate.

However, nothing expressed hereinabove shall be construed as an expression on the merits of the case.

28.02.2023
anil

(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No

