

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

CRM-M-1749-2022 (O & M)
Date of Decision: 21.07.2023

Mukhtar Singh Petitioner

V/s

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Karnail Singh Ahhi, Advocate,
for the petitioner.

Ms. Ramta Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.0052 dated 26.02.2021 under Sections 22/61/85 NDPS Act registered at Police Station Maqboolpura, Amritsar.

2. The brief facts of the case are that on 25.02.2021 while the police party was present at Mehta Road, Amritsar for *nakabandi*, one clean-shaven person carrying a heavy black plastic bag in his right hand was seen coming by foot. On seeing the police, party, he became perplexed and was about to turn and throw the black coloured plastic bag which he was carrying in his right hand in the bushes. He was overpowered. After complying with the procedure regarding search and seizure, the recovery of 1000 maroon

coloured Parvon-Spas-Plus tablets came to be effected from the polythene bag.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. There was a violation of the mandatory provisions of the NDPS Act including Sections 42, 50 and 52-A. In fact, the notice under Section 50 NDPS Act had been prepared later on at the time of preparation of the report under Section 173 Cr.P.C. As per the FSL report, the quantity of contraband recovered was less than the commercial quantity. As the petitioner was in custody since 15.12.2021 and only 05 out of the 09 prosecution witnesses had been examined so far, he was entitled to the concession of bail.

4. The learned counsel for the State, on the other hand, contends that as per the prosecution case, the petitioner was apprehended with 1000 Parvon-Spas-Plus tablets. The said tablets contained Tramadol Hydrochloride and the total weight of the intoxicant tablets was 595 grams. As per the notification under the NDPS Act, the commercial quantity was 250 grams and above. Therefore, in view of the bar contained under Section 37 of the NDPS Act, the petitioner was not entitled to the grant of regular bail. Even otherwise, the trial was at the fag end and as many as 05 out of 09 prosecution witnesses had already been examined. She, therefore, contends that the petitioner did not deserve the concession as prayed for.

5. I have heard the learned counsel for the parties.

6. Apparently, the recovery from the petitioner is of a commercial quantity of contraband. 05 out of the 09 prosecution witnesses already stand examined. Therefore, the trial of present case is on the verge of conclusion.

Therefore, in view of the bar contained under Section 37 of the NDPS Act, the petitioner is not entitled to the concession of bail.

7. In view of the above, I find no merit in the present petition. Therefore, the same stands dismissed.

(JASJIT SINGH BEDI)

JUDGE

July 21, 2023

sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No