

CRM-M-3197-2023
Date of Decision: 13.02.2023

Versus

Present: Mr. Gurpal Singh Sandhu, Advocate, for the petitioner.
Mr. Karunesh Kaushal, Assistant Advocate General, Punjab.

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.177 dated 06.10.2022, registered under Sections 22-A, 27, 29 of Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Kotbhai, District Sri Muktsar Sahib.

Adumbrated facts of the case are that the police party while patrolling and checking, found that from village Butter Sharif side, two persons on the motorcycle were coming and on seeing the police, they tried to escape, however, the motorcycle slipped and they fell down. The police party nabbed both the accused on spot. On their asking, the driver of the motorcycle disclosed his name as Sukhpreet Singh, whereas, the pillion rider disclosed his name as Sukhmander Singh i.e. the petitioner. On suspicion of carrying some contraband, they were given the offer under Section 50 of the NDPS Act for their search. A plastic bag being carried by the pillion rider Sukhmander Singh was searched and 350 loose intoxicant tablets were recovered from the same. On the basis of the same, FIR for the offence under Section 22-A of the NDPS Act was lodged. Thereafter, samples were sent to the FSL. Both the accused were arrested. The

petitioner approached the Court of learned Addl. Sessions Judge, Sri Muktsar Sahib for grant of bail, who, after hearing the parties, declined the same vide order dated 14.12.2022. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case. He submits that even assuming the case of the prosecution as alleged to be true, then it is the case of the prosecution itself that the intoxicant tablets allegedly recovered from the petitioner were sent to the FSL and on the receipt of the FSL report it was found to be containing Gabapentin, which is not prohibited under the NDPS Act. He submits that co-accused Sukhpreet Singh has already been granted bail. He submits that once the alleged contraband recovered from the petitioner is not found to be covered under the NDPS Act, false implication of the petitioner is writ large. He has submitted that the petitioner is behind bars since 06.10.2022 and the investigation is also complete and hence, he deserves to be granted bail.

Learned State counsel has placed on record the status report by way of affidavit of Jasbir Singh, PPS, Deputy Superintendent of Police, Sub-Division Gidderbaha, District Sri Muktsar Sahib dated 13.02.2023. He has candidly submitted that the contraband recovered was sent to the FSL and as per the FSL report tablets were found to be containing drug Gabapentin, which is not covered under the NDPS Act. He has further drawn the attention of this Court to the status report filed wherein it is mentioned that on the receipt of the FSL report offence under Section 22(a), 29 NDPS Act were deleted vide DDR No.30 dated 21.01.2023. He submits

that as on date the FIR is only for the offence under Section 27 of the NDPS Act, which pertains to personal consumption by the accused. He submits that the investigation is complete and challan is already filed. He further submits that the co-accused is already on bail.

Heard.

Admittedly, the contraband recovered from the petitioner was found to be containing Gabapentin, which is not covered under the NDPS Act and hence, the FIR is only for the offence under Section 27 of the NDPS Act. As submitted by learned State counsel on instructions from ASI Kuldeep Singh, the investigation is already complete and challan is presented. The co-accused is also on bail. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time for its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

13.02.2023
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Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No

(RAJESH BHARDWAJ)
JUDGE