

210

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

**CRM-M-4829-2023
Decided on:-03.02.2023**

Shamsher Singh @ Shama @ Rock

....Petitioner..

vs.

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Dr. Juhi Goel, Advocate,
for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

HARKESH MANUJA J. (Oral)

By way of present petition filed under Section 439 of the Code of Criminal Procedure, 1973, petitioner is seeking grant of regular bail pending trial in FIR No.145 dated 13.08.2021, under Section 22 of the NDPS Act, 1985 registered at Police Station Nihal Singh Wala, District Moga (Annexure P-1).

Learned counsel for the petitioner submits that in the present case, investigation has already been concluded and *challan* stands filed way back on 11.03.2022 but even till date out of 13 prosecution witnesses, none has been examined so far. Charges were framed on 04.04.2022. Learned counsel for the petitioner further submits that from a perusal of the *challan* one can make out that there is blatant non compliance of Section 42 of the NDPS Act.

He also submits that though at the time of effecting alleged

recovery, the police officials were in a private vehicle as described in the *challan* itself, however, no details of the said vehicle such as, chassis number, type, name of driver etc. have been disclosed/mentioned in the *challan* which runs contrary to the guidelines dated 27.04.2015 issued by the office of Director General of Police, Punjab, Chandigarh. Learned counsel for the petitioner also submits that it would be highly unbelievable that a person engaged in the business of drug smuggling will carry the contraband in white transparent polythene bag as described in the FIR/*challan*. Moreover, the co-accused of the petitioner, namely, Ram Dass @ Ramdas @ Ramna has already been granted the concession of regular bail by this Court vide order dated 19.01.2023 passed by this Court in “***Ram Dass @ Ramdas @ Ramna vs. State of Punjab***”. In view thereof, learned counsel for the petitioner prays for grant of concession of regular bail.

On the other hand, prayer made hereinabove has been strongly opposed at the instance of learned State counsel who submits that recovery effected in the present case is of commercial quantity.

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

In the facts of the present case, petitioner has already remained behind the bars for almost 1 year 5 days. Investigation has been concluded, *challan* stands filed and charges framed. None of the prosecution witnesses out of 13 has been examined so far and conclusion of the trial is likely to take long time. Even otherwise, co-accused, namely, Ram Dass @ Ramdas @ Ramna has already been granted the concession of regular bail by this

Court vide order dated 19.01.2023. The issue of non-compliance of Section 42 NDPS Act being debatable and coupled with the other issue raised at the instance of the petitioner as regards non-compliance of instructions dated 27.04.2015 issued by the office of Director General of Police, Punjab, Chandigarh and also considering the long incarceration of the petitioner, he deserves the concession of grant of regular bail.

Without commenting anything on the merits, lest it may prejudice the case of either side, 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.

03.02.2023
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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/ No