

CRM-M-7389-2022

Date of Decision :01.03.2023

Rajwinder Singh @ Raju

...Petitioner

versus

State of Punjab

....Respondent

Coram : Hon'ble Mr. Justice B.S. WaliaPresent: Mr. Barjinder Singh, Advocate for
Mr. Prateek Pandit, Advocate for the petitioner.

Mr. Paramjit Singh Batta, Addl. AG, Punjab.

B.S. Walia, J. (Oral)

1. Prayer in the 3rd petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner during pendency of trial in case FIR No.318 dated 23.12.2020, registered under Section 22, NDPS Act, 1985, at Police Station Kotwali, Kapurthala, District Kapurthala.

2. Learned counsel contends that recovery from the petitioner was only of 110 grams of *alprazolam* which is marginally higher than the commercial quantity; the petitioner has been in custody since 23.12.2020 besides trial is likely to take long time, therefore, no useful purpose would be served by keeping the petitioner in custody especially when the contraband was weighed along with the bag, therefore, in view of the decision of a Coordinate Bench of this Court in CRM-M-53722-2018, titled as Rajinder Singh alias Raja vs. State of Punjab, the petitioner is entitled to be released on bail.

3. Per contra, learned Addl. AG, Punjab, vehemently opposes the same on the ground that the petitioner is a habitual offender and has

six FIRs registered against him under the NDPS Act. Details of the same are asunder:-

- i. FIR No.121 dated 25.06.2016, U/s 22 of NDPS Act, P.S. Kotwali.
- ii. FIR No.39 dated 26.03.2017 U/s 22 of the NDPS Act, P.S. Sadar, District Kapurthala.
- iii. FIR No.209 dated 05.09.2018, U/s 22 of the NDPS Act, P.S. Kotwali, District Kapurthala.
- iv. FIR No.76 dated 11.04.2020, U/s 22 of the NDPS Act, P.S. Kotwali, District Kapurthala.
- v. FIR No.68 dated 29.08.2019, U/s 21/27 of the NDPS Act, P.S. Begowal, District Kapurthala.
- vi. FIR No.113 dated 25.05.2015, U/s 22 of the NDPS Act, P.S.Kotwali, District Kapurthala.

4. Learned State counsel further contends that out of the aforementioned six FIRs, the petitioner stands acquitted in two cases and convicted in two FIRs, therefore, the petitioner is a habitual offender. He further contends that out of eleven prosecution witnesses, four have already been examined and the remaining seven would be examined within such time frame as is granted by this Court and trial concluded.

5. I have considered the submission of learned counsel.

6. Admittedly, recovery from the petitioner is of 110 grams of alprazolam and the contraband is stated to have been weighed along with the bag. Although, in view of the decision of a Coordinate Bench of this Court in Rajinder Singh @ Raja's case (supra), in case of marginally higher quantity of contraband weighed along with the bag containing the contraband, accused is to be given benefit of bail, yet, in view of the fact

that six other FIRS stand registered against the petitioner and he has been convicted in two of the aforementioned cases, therefore, I am of the considered view that the ends of justice would be met in case the learned trial Court is requested to examine the remaining prosecution witnesses and conclude the trial as expeditiously and in any case within four months from today. Needless to mention, nothing stated hereinabove would be constructed as an expression of opinion on the merits of the case. Copy of this order be forwarded to the learned trial Court for information and necessary action.

7. Disposed of with the aforementioned directions.

(B.S. Walia)
Judge

01.03.2023
rajesh

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