

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

CRM-M-9923-2023

Date of decision : 01.03.2023

Shubham @ Gaurav

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Sandeep Arora, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.88 dated 03.08.2018, under Section 22 of NDPS Act, registered at Police Station Lambra, District Jalandhar Rural.

It has been submitted by counsel for the petitioner that the petitioner was falsely implicated in this case. He submits that as per the case of prosecution, petitioner was allegedly coming on motorcycle and he was intercepted being suspected and was given an offer to search. However, he posed confidence in the police officials and the search of his pocket was conducted wherein 20 grams of intoxicant powder was recovered and the petitioner was booked for the offence under Sections 22, 61, 85 of NDPS Act. He submits that the petitioner was arrested on 3rd August, 2018. Thereafter, he approached the learned Special Court, Jalandhar praying for grant of bail and the petitioner was granted bail after a month of his arrest. He submits that thereafter, the petitioner was duly facing the trial. However, as the petitioner could not appear before the trial Court on 09.08.2021 and hence, his bail was cancelled and bail/surety

bonds were ordered to be forfeited by the trial Court on 09.08.2021 and he was declared proclaimed offender on 22.09.2022. He submits that the petitioner himself surrendered before the authorities on 02.02.2022. It is submitted by counsel for the petitioner that the alleged contraband recovered from the petitioner as per the prosecution is 20 grams of Tramadol which would fall under non-commercial quantity. He has submitted that the petitioner has no criminal antecedents and on the earlier occasion, he was granted bail within a month of his arrest. However, as he remained absent, his bail was cancelled and thus, the petitioner was declared proclaimed offender without following the procedure prescribed in Criminal Procedure Code. However, the petitioner himself surrendered before the authorities. He submits that the petitioner has no criminal antecedents as he has not been involved in any other case. He submits that in the facts and circumstances, petitioner deserves to be granted regular bail.

Learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that though the contraband recovered from the petitioner falls under the category of non-commercial quantity, however, he did not obey the terms and conditions of the bail granted and remained absent from the Court for one year and hence, he was rightly declared as proclaimed offender. He submits that the challan already stands presented and charges are framed. He further submits that as per his instructions, petitioner is not involved in any other case.

Heard. Evidently, the contraband recovered from the petitioner is 20 grams of Tramadol which falls under the non-commercial quantity and thus, provisions of Section 37 of NDPS Act are not applicable

in the present case. Though the petitioner was declared proclaimed

offender, however, later on, he surrendered before the Court and now he is behind bars since then. There is nothing on record to show that the petitioner has any criminal antecedents as he is not involved in any other case.

The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficiently long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds 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.

01.03.2023
m. sharma

(**RAJESH BHARDWAJ**)
JUDGE

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