

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

CRM-M-13543-2022 (O&M)

Date of Decision : 24.01.2023

Jaspreet Singh alias Jassa

....Petitioner

VERSUS

State of Punjab

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. N.S. Dandiwal, Advocate for the petitioner.

Mr. Kunal Muthreja, AAG Punjab.

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ALKA SARIN, J. (Oral)

This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.105 dated 26.07.2021 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Badhni Kalan, District Moga. The earlier petition being CRM-M-8197-2022 was dismissed as withdrawn on 03.03.2022 with liberty to file afresh with better particulars.

Learned counsel for the petitioner would contend that the petitioner has been in custody since 26.07.2021 and despite the challan having been filed on 01.11.2021 only two witnesses out of twelve have been examined and that despite issuance of non-bailable warrants against the official witnesses, they are not coming forward to get their statements recorded. It is further the contention that there are no other cases pending against the petitioner. Learned counsel would further contend that the tablets

recovered from the petitioner contained the salt 'Etizolam' which is an anti anxiety medication. The said salt was notified under the NDPS Act and notification in this regard was issued only on 23.03.2021 vide which the entry at Sr.No.238ZZC had been added in the Schedule of the NDPS Act. The FIR in the present case was registered on 26.07.2021 and that no publication qua the said notification was ever made.

Per contra, learned counsel for the State has contended that the recovered contraband is commercial quantity and that the petitioner does not deserve the concession of regular bail. He is, however, not in a position to deny that the challan was presented on 01.11.2021 and that non-bailable warrants have been issued against the official witnesses who are not coming forward to get their statements recorded.

Heard.

In the present case the petitioner was apprehended on the basis of secret information. It is the case set up by the prosecution that on seeing the police vehicle the petitioner tried to escape by throwing the transparent plastic bag being carried by him which contained 30 strips of tablets "Etizolam 0.5 mg DEPROZ 0.5 mg" each strip containing 10 tablets (total 300 tablets). It is an undisputed fact that the said salt has been notified under the NDPS Act only on 23.03.2021. The petitioner has been in custody since 26.07.2021 and out of twelve prosecution witnesses only two witnesses have been examined. There is no other case pending against the petitioner.

In view of the above and without commenting upon the merits of the case, I deem it fit to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his

furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/ Trial Court/Judge, Special Court (Duty), concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

January 24, 2023
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO