

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-15449-2023

Date of Decision:-12.09.2023

Jatinder Kumar @ Babbu.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Munish Puri, Advocate for the Petitioner.

Ms. Ramta K Chaudhary, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this second petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.69 dated 08.09.2021 under Sections 21 (C) , 22 of the NDPS Act, Section 29 NDPS Act added later on registered at Police Station Narot Jaimal Singh, District Pathankot.

2. The brief facts of the case are that while the police party was on patrolling duty, secret information was received that one Jatinder Kumar @ Babbu (petitioner) was indulging in the sale of intoxicant capsules and would be bringing a huge quantity of the same on a motor cycle for selling the same in Narot Jaimal Singh area. If a check post was set up he could be nabbed. Based on the said information the investigating agency started searching and checking the passing vehicles and soon thereafter a youngster was seen coming from J&K side on a motor cycle. He was given an

indication to stop. However the motor cyclist suddenly stopped his motor cycle and tried to turn around. He was nabbed and on asking disclosed his name as Jatinder Kumar @ Babbu. After following the procedure of search and seizure under the NDPS Act the recovery of 1210 Capsules make SPM-PRX+WOCKHARDT came to be effected.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The petitioner has been in custody since 08.09.2021 and 09 of the 15 prosecution witnesses have been examined so far. Therefore, the trial of the present case was not likely to be concluded anytime soon. Even otherwise, as the recovery from the petitioner was marginally above the commercial quantity of 250 grams of Tramadol Hydrochloride, the petitioner was entitled to the grant of bail.

4. On the other hand, the learned State counsel contends that commercial quantity of contraband has been recovered from the petitioner. Therefore, he was not entitled to the concession of bail in view of the bar contained under Section 37 of the NDPS Act. He, however, concedes that the petitioner is a first time offender, in custody since 08.09.2021 and 09 out of the 15 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.

6. In the cases of '*Sukhchain Singh @ Manga Versus State of Punjab, CRM-M-7857-2022 decided on 04.04.2022, Pardeep Singh versus State of Punjab, CRM-M-46244-2022 decided on 19.01.2023, Hari Yadav @ Haiya versus State of Punjab (CRM-M-37645-2021)*' decided on 11.11.2022, '*Jang Kanwar Versus State of Punjab (CRM-M-53415-2021)*' decided on 19.01.2022, '*Shankar Prashad Chanau Versus The State of Punjab, CRM-M-24090-2020, decided on 27.08.2020, Gurpreet Kumar Versus State of Punjab, CRM-M-17021-2021, decided on 31.08.2021,*

Salim Versus State of Haryana, CRM-M-42436-2020, decided on 24.02.2021, Gagandeep Versus State of Punjab, CRM-M-3055-2021, decided on 27.01.2021, Gurpreet Singh @ Gopi Versus State of Punjab, CRM-M41039-2019, decided on 26.02.2020, Dalbara Singh Versus State of Punjab, CRM-M-47880-2022 decided on 16.01.2023', and Vivek Watts versus State of Punjab, CRM-M-13791-2022 decided on 15.02.2023, where the recovery from the accused was marginally above the commercial quantity for the respective contraband in each case, the Court granted bail to the accused therein.

7. In the present case, the alleged recovery from the petitioner is 1210 intoxicant capsules make SPM-PRX+WOCKHARDT containing Tramadol Hydrochloride salt, which is marginally above the commercial quantity of 250 grams. In this situation, the provisions of Section 37 of the NDPS Act can be relaxed to an extent and the case of the petitioner can be considered for the grant of bail, moreso, when he is in custody since 08.09.2021 and 09 out of the 15 prosecution witnesses have been examined so far.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner-**Jatinder Kumar @ Babbu** son of Sh. Shyam Lal is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any other case other than the present case.

10. In addition, the petitioner (or someone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the

Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

September 12, 2023

Vinay

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