

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

(222)

CRM-M-15934 of 2023
DATE OF DECISION:-25.05.2023

Kashmir Singh @ Kashmiri

...Petitioner

vs.

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. A. S. Brar, Advocate, for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

HARKESH MANUJA, J.

(1) By way of present petition filed under Section 439 of the Code of Criminal Procedure, 1973, petitioner prays for grant of bail pending trial in case FIR No.205 dated 16.09.2022 under Sections 22 of NDPS Act 1985 (Section 29 of the NDPS Act added lateron) registered at Police Station Baghapurana, District Moga.

(2) As per allegations in the FIR, co-accused of the petitioner was apprehended with 90 tablets of Etizolam salt and the petitioner was implicated on the basis of disclosure made by the said co-accused Gagandeep Singh @ Gagga.

(3) Learned counsel for the petitioner submits that the veracity of the disclosure has to be ascertained during trial and besides the said disclosure, there is no incriminating evidence against the petitioner. He further submits that investigation in the present case already stands concluded followed by framing of charges. Despite it, petitioner being behind the bars for a period of more than two and half months, conclusion of trial is likely to take some time.

(4) On the other hand, learned State counsel opposes the prayer made herein while referring to the huge recovery of intoxicants.

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

(6) In the present case, petitioner has merely been implicated on the basis of disclosure made by the co-accused Gagandeep Singh @ Gagga and the petitioner is not involved in any other case of similar nature. Besides it, investigation already stands concluded followed by framing of charges, however, only 2 prosecution witnesses have been examined out of total of 8 and thus, trial is likely to take some time, as such, I do not see any reason to extend the incarceration of the petitioner any further as he has already suffered incarceration for a period of more than two and half months and the evidentiary value as well as the relevance of the disclosure in the absence of any other evidence has to be adjudicated upon during trial.

(7) Without commenting anything on the merits, lest it may prejudice the trial, 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.

25.05.2023
anil

(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No