

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

CRM-M-18992-2022

Date of Decision: 16.05.2023

Sham Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present:- Mr. Ruhani Chadha, Advocate,
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

ASHOK KUMAR VERMA, J. (Oral)

Petitioner has filed this second petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.84 dated 13.03.2018 registered under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Sultanpur Lodhi, District Kapurthala.

Learned counsel for the petitioner has argued that as per the prosecution case, while on patrolling duty the petitioner was apprehended by the police officials with some intoxicant substance and on being asked to be searched from a Magistrate or a Gazetted Officer as per his legal right he said that he does not want to be searched from any gazetted officer or Magistrate and the ASI can search him and the consent memo was prepared. Upon search from the right pocket of the petitioner one polythene having intoxicant substance weighing 120 grams was recovered and the petitioner was arrested and the present FIR was registered against him.

The petitioner was released on interim regular bail by the learned Additional Sessions Judge, Kapurthala vide order dated 21.04.2018 awaiting Chemical Examiners report. On one date he failed to appear before that Court due to outbreak of Covid-19 due to which learned Special Judge, Kapurthala, issued his non-bailable warrants and pursuant to which petitioner was taken in custody on 04.06.2021.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated and the alleged recovery has been planted upon the petitioner. He further submits that the petitioner has been in custody since long time and the trial is also likely to take long time and no useful purpose will be served by further detention of the petitioner in custody and even the quantity of contraband recovered is marginally above the commercial. The petitioner is stated to be involved in three other cases, out of which in two he has been acquitted. Therefore, the petitioner may be released on regular bail and there is no other case registered against the petitioner under NDPS Act.

On the asking of the Court, Mr. Ramender Singh Chauhan, AAG, Haryana, accepts notice on behalf of the respondent-State

Learned State counsel strongly opposes the grant of bail to the petitioner as the petitioner is an habitual offender and he was involved in three other cases of similar nature although acquitted in two of them. He also files his custody certificate dated 5.05.2023, which is taken on record.

I have heard learned counsel for the parties and gone through the paper-book.

Keeping in view the facts and circumstances of the case and period of custody of the petitioner as also the fact that the quantity of contraband recovered from him being marginally above the commercial quantity and also the fact that the trial likely to take long time and he also being acquitted in two cases out of three other cases under NDPS, without commenting on the merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Accordingly, petitioner-Sham Singh, is ordered to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

(ASHOK KUMAR VERMA)
JUDGE

May 16, 2023

dharamvir

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO