

**103+209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-47620-2023 in/and
CRM-M-18564-2023
Date of Decision: 15.12.2023**

Jagdev Singh ...Petitioner
vs.
State of Punjab ...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. P.S.Sekhon, Advocate
for the petitioner.

Mr.M.S.Bajwa, Deputy Advocate General, Punjab.

N.S.Shekhawat J. (Oral)

CRM-47620-2023

1. Application is allowed as prayed for. Annexures A-1 to A-3 are taken on record.

CRM-M-18564-2023

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.172 dated 02.11.2022 registered under Sections 22 and 29 of NDPS Act, at Police Station City-I, Sangrur, District Sangrur.

2. As per case of the prosecution, on 02.11.2022, the co-accused Bhuri wife of Balli Singh was arrested by the police team, while she was carrying 180 strips, each strip containing 10 tablets i.e. total 800 tablets of Alprasafe 0.5, without any permit or license.

3. Learned counsel for the petitioner submits that the petitioner has been nominated as an accused in the present case on the basis of the disclosure statement suffered by his co-accused Bhuri wife of Balli Singh. After recording the said statement of co-accused, Section 29 of the NDPS Act was added in the present case and the petitioner was wrongly arrested on 31.01.2023. He further contends that the mandatory provisions of search and seizure were not followed by the police in the present case. As per learned counsel, no recovery was also effected from the present petitioner and his case is clearly distinguishable from the case of his co-accused.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the recovery of contraband from the co-accused was commercial in nature. He further contends that 8 other cases were registered against the present petitioner.

5. I have heard the learned counsel for the parties and perused the record.

6. The petitioner was arrested in the present case on 31.01.2023 and is in custody for the last about 10 months. The petitioner can never be confined in jail for an indefinite period as the Hon'ble Supreme Court in the matter of ***Prabhakar Tewari Vs. State of U.P., and another 2020(1) R.C.R. (Criminal) 831*** has held that the pendency of several criminal cases against the accused cannot be the basis to refuse the prayer of bail. Similar observations have been made by the Hon'ble Supreme Court in the matter of ***Maulana Mohd. Amir Rashadi Vs. State of U.P., and another 2012(1) R.C.R. (Criminal) 586***. In the present case, no recovery was effected from the present petitioner and he has

been involved on the basis of the disclosure statement suffered by the co-accused. Still further, the pendency of the criminal cases against the petitioner is no ground to deny the concession of bail to him, when the petitioner has been able to make out a case for grant of bail in the peculiar facts and circumstances of the case.

7. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned subject to the following conditions:-

- (i) *The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.*
- (ii) *The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) *The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) *The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) *The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*
- (vi) *In case, the petitioner involves in any other criminal*

activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.

(vii) The concerned Court may insist on two heavy local surties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.

(viii) The petitioner shall report every 1st Monday of English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Punjab shall be at liberty to move an appropriate application in this regard.

15.12.2023

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(N.S.SHEKHAWAT)
JUDGE

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