

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.22707 of 2023 (O&M)
Date of decision: 04.07.2023

Naman
State of Punjab
Versus
....Petitioner
....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Charanpreet Singh, Advocate
for the petitioner.
Mr. Teevar Sharma, AAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this 3rd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.147 dated 13.08.2018, registered under Section 22 of the NDPS Act at Police Station City Phagwara, District Kapurthala.

The earlier one was dismissed as withdrawn.

The new ground for filing this petition is that as on today, the custody of the petitioner is about 04 years and out of 12 PWs, only 03 PWs have been examined.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered on 13.08.2018, ASI Onkar Singh while on duty, received a telephone call from one Constable that one Ishi @ Ajay and the petitioner Naman were apprehended with

intoxicant injections and on receiving the information, the FIR was registered.

Counsel for the petitioner has further submitted that later on, ASI Onkar Singh was deputed for the investigation and on reaching the spot, when the petitioner and the co-accused were produced before him, the petitioner was found allegedly having a kit bag and ASI Onkar Singh, searched the said kit bag, from which 60 intoxicant injections were recovered.

Counsel for the petitioner has also argued that it will be a matter of trial, whether Section 50 of the NDPS Act was complied with or not as the personal search was conducted and even from the bag from which the recovery was effected, which as per the prosecution version, the petitioner was carrying in his hand.

Counsel for the petitioner has further submitted that despite long custody of the petitioner of about 04 years, the trial is not proceeding and only 03 PWs have been examined out of 12 PWs.

Counsel for the State, however, as per the Custody Certificate could not dispute the actual custody and submitted that the petitioner stands convicted in one case for a period of 10 years vide judgment dated 20.07.2021 where he is already undergoing the sentence.

However, no reasonable explanation has been given as to why the trial is being delay for a period of about 04 years as only 03 PWs have been examined.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last about 04 years; the custodial interrogation of the petitioner is not required and in view of the legal plea taken by the petitioner with regard to non-compliance of Section 50 of the NDPS Act, which is to be decided at the time of final disposal of the case and the fact that the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

04.07.2023
yakub

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