

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

CRM-M-22998-2023

Date of Decision: 30.10.2023

Ashish @ Ashu

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Hitesh Chopra, Advocate, for the petitioner.

Ms. Akshita Chauhan, Deputy Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present third petition is for the grant of regular bail to the petitioner in a case FIR No.147 dated 30.10.2022, registered under Section 22(b) of NDPS Act, at Police Station Dhariwal, District Gurdaspur.

Adumbrated facts of the case are that the police party while conducting special search operation, went to the house of Ashish @ Ashu i.e. the petitioner. They tried to join the independent witness, however, nobody was ready to join. On entering the house of the petitioner-accused, they found a polythene bag in his right hand. On seeing the police, he tried to run away from there. However, he was caught by the raiding party and on checking of polythene bag, 100 tablets of narcotic drugs were found in the same. On search of the petitioner, finding narcotic drugs in his possession, case under Sections 22(B), 27(A)-61-85 of the NDPS Act was registered. The petitioner was arrested on the spot i.e. on 30.10.2022. Samples of the drugs were taken and sent to the FSL. The petitioner approached the Special Court, Gurdaspur for bail and the same was declined vide order dated 02.12.2022. Thereafter, the petitioner approached this Court twice for

grant of bail, however, the same were declined on 25.01.2023 and thereafter, on 24.04.2023. Hence, the petitioner has approached this Court again by way of filing the present third petition for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in this case. He has submitted that from the reading of the FIR, it is apparent that there was no secret information received against the petitioner, however, raiding party allegedly entered the house of the petitioner and recovered alleged contraband. He submits that no offer under Section 50 of the NDPS Act was given to the petitioner as is apparent from the case of the prosecution itself. He submits that the investigation in this case is already complete and challan is presented, thereafter, the charges are also framed. He submits that on the earlier occasion, the petitioner was implicated in one FIR, wherein, he was released on paying fine of Rs.500/- and after undergoing 8 days imprisonment. It is submitted that the alleged contraband from the petitioner weighs 47 grams of tramadol, which is non-commercial quantity, thus, there is no minimum sentence provided for the same. He submits that the petitioner is behind bars from the last about one year. He submits that in the overall facts and circumstances of the case, the petitioner deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner. She has submitted that raid on the house of the petitioner was conducted and recovery of contraband was effected from the polythene being carried by him. She submits that the petitioner was also convicted in the similar case, but was released on the payment of fine of Rs.500/- and undergoing 8 days of imprisonment. She submits that only charges are framed in this case and the

trial is yet to start, thus, the petitioner does not deserve the grant of regular bail.

Heard.

Evidently, the petitioner was arrested on 30.10.2022, whereas, recovery effected from the petitioner is 47 grams of tramadol, which is admittedly, non-commercial quantity. The petitioner is behind bars from the last about one year. The investigation is complete and charges are also framed. This Court would refrain itself from commenting anything on the merits of the case. However, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time in its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

30.10.2023			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No