

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

**CRM-M No.25621 of 2022 (O&M)
Date of Decision.05.01.2023**

Rachhpal Singh

...Petitioner

Vs

State of Punjab

...Respondent

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Yashpal Thakur, Advocate
for the petitioner.

Mr. Sehajbir Singh Aulakh, AAG, Punjab.

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JAISHREE THAKUR J. (ORAL)

This is second petition that has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.110 dated 19.11.2021 registered under Sections 22-C/61/85 (Section 29 added later on) of the NDPS Act at Police Station Badali Ala Singh, District Fatehgarh Sahib, Punjab.

Learned counsel appearing for the petitioner would contend that the petitioner along with co-accused Jagjit Singh was apprehended with 1800 loose tablets and 12 bottles of Chlorpheniramine Maleate & Codeine Phosphate Syrup Mahrex, which were recovered from the car bearing No.PB-65-V-0515 in which they were travelling. It is further contended that the petitioner was allowed interim bail till receiving of FSL report vide order dated 28.02.2022 passed in CRM-M No.7795 of 2022 and after receiving of FSL report dated 04.02.2022, the petitioner surrendered before the trial court.

It is argued that the policy party was in private vehicle at the

time of alleged recovery, which is contrary to the instructions issued by the Punjab Government and therefore, the petitioner is entitled for bail. In this regard, he relies upon the judgment passed by his Court in CRM-M No.14595 of 2020 titled as *Sharana Ram Vs. State of Punjab* decided on 19.11.2020. It is further argued that FSL report does not show that entire contraband as allegedly recovered was analyzed by the laboratory and only a portion thereof was analyzed. It is also argued that as per prosecution story, alleged contraband was kept in a transparent polythene bag and in an identical situation where the recovery was effected from a transparent polythene bag, this Court has granted regular bail to the accused therein vide order passed in the matter of *Kulwinder Kaur Vs. State of Punjab 2022 (4) Law Herald (P&H) 2915*. It is also submitted that the trial is likely to take some time to conclude and therefore, prays of concession of regular bail to the petitioner.

Learned counsel appearing on behalf of the respondent-State opposes grant of bail to the petitioner by contending that the recovery effected from the petitioner is of commercial quantity and therefore, he is not entitled to be enlarged on bail.

I have heard learned counsel for the parties and have perused the paper book. A perusal of the FIR would reveal that the police party was patrolling in a private vehicle, which is against the instructions issued by the Punjab government as well as the direction issued by the Director General of Police, Punjab. A perusal of the reply filed by the respondent-State would reveal that the recovery of alleged contraband was effected from a polythene bag and this Court in *Kulwinder Kaur's case* (supra) while granting bail to the accused therein has observed that it is highly unlikely

that the accused would carry such substances in transparent polythene bag. Therefore, keeping in view the fact that debatable issues are involved in the present case and the trial is likely to take some time to conclude, no useful purpose would be served in keeping the petitioner behind bars. The instant petition is allowed and the petitioner is directed to be released on regular bail on his execution of adequate personal/surety bonds of Rs.50,000/- each to the satisfaction of concerned trial court/Duty Magistrate. However, any observation made herein shall not be construed to be an expression on merits of the case.

January 05, 2023	(JAISHREE THAKUR)
Pankaj*	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No