

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

CRM-M-26899-2023

DECIDED ON: 29.09.2023

SUKHBIR SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Jitender Danda, Advocate for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked seeking grant of regular bail in FIR No.14, dated 11.02.2022, under Section 22 of the NDPS Act, 1985, registered at Police Station Khanauri, District Sangrur (Annexure P-1), which is reproduced hereinbelow:-

“To, The SHO Incharge P.S. Khanori, Jai Hind. Today I SI alongwith SI Kulwinder Singh 1346/Sang, Ct. Virdavinder Singh 313/Sang. Ct. Karanvir Singh 2246/Sang on private car alongwith laptop and printer in the search of bad elements were present at Sahara Club Khanori near Bhakhra Canal bridge, then time is about 9:30 pm, a secret informer informed me SI that Sukhvir Singh S/o Khajan Singh, R/o Ward no.09, Near Ware House Khanori, P.S. Khanori, Malik Ram S/o Khan Ram, R/o Shahpur Behri, P.S. Khanori who are habitual of selling intoxicant tablets. Today also, they in their car bearing No.PB11-BF-7012 marka XYLO are taken intoxicant tablets from outside and came towards Khanori Side, from the side of Village Padarth Khera towards Village Khanori Khurd link road. If barricading is done at Khanori Khurd link road, then Sukhbir Singh and Malik Ram above said alongwith above said car number got apprehended alongwith intoxicant tablets. The information supplied by

secret informer is reliable. Sukhvir Singh and Malik Ram without any permit or license carrying intoxicant tablets in their possession, which fulfills the conditions of offence under Section 22/61/85 NPDS Act. Hence, Ruqa after printing has been sent to police station through Ct. Karanvir Singh 2246/Sang for registration of the FIR against Sukhvir Singh 8/0 Khajan Singh, R/o Ward No.09, Near Ware House, Khanori P.S. Khanori, Malik Ram S/o Khan Ram, R/o Shahpur Behri, P.S. Khanori under Section 22/61/85 NPDS Act. FIR number be intimated after registering the FIR. Control Room Sangrur be informed. For further investigation appropriate office/investigating office be sent on the spot. I alongwith companions is present on the spot. Today in the area of Bridge Bhakhar Near Sahara Club Khanori at 10:00 pm, Sd/ Karnail Singh ASI/2200, P.S. Khanori dated 11.02.2022.”

2. Learned counsel for the petitioner submits that as per the prosecution story, 1000 tablets of Alprazolam were recovered from the possession of the petitioner as well as from his co-accused Malik Ram in a polythene bag and it is also not in dispute that the petitioner was apprehended at the spot, however, he relies upon an order dated 20.09.2023, passed in **CRM-M-38103-2023** titled as **“Malik Ram versus State of Punjab”**, claiming parity with the co-accused Malik Ram stating that co-accused Malik Ram has already been granted the concession of regular bail by a Co-ordinate Bench of this Court, copy of said order has been produced by learned counsel for the petitioner today in Court.

3. On the other hand, learned State counsel submits on instructions from HC Gurmail Ram, that the fact with regard to the grant of regular bail to the co-accused Malik Ram is correct and the period of custody is also more than 1 year 6 months, though he prays for dismissal of the instant regular bail on the ground that the petitioner is involved in many other cases of different nature.

4. Be that as it may, this Court has also perused the custody certificate dated 03.08.2023, according to which the petitioner is behind the bars for the last 1 year 5 months and 20 days and he is involved in various other cases, though other FIRs, as has been mentioned in the custody certificate involves, are under Section 61 of the Excise Act.
5. The petitioner cannot be denied the bail in the light of the fact that he is involved in other cases under the Excise Act.
6. As far as the pendency of other cases is concerned, as has been stated by learned State counsel, no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases. In such eventuality strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would lend the petitioner in a situation of denial the concession of bail.
7. In the light of the aforesaid facts and circumstances and also the fact that the co-accused of the petitioner has already been granted the concession of regular bail by a Co-ordinate Bench of this Court vide order dated 20.09.2023, the petitioner is, therefore, directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.
8. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.
9. The present petition is, hereby, allowed.

(SANDEEP MOUDGIL)
JUDGE

29.09.2023

Poonam Negi

Whether speaking/reasoned Yes/No

Whether reportable Yes/No