

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

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CRM-M-27341-2023 (O&M)
Date of decision: 21.09.2023

Rinku Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Kuldip Singh, Advocate for the petitioner

Mr. Manipal Singh Atwal, DAG, Punjab

AMAN CHAUDHARY, J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.50 dated 15.03.2023, registered under Section 22 of NDPS Act, at Police Station City Jalalabad, District Fazilka.
2. Learned counsel contends that the petitioner is in custody for last more than 6 months. Recovery that has been alleged in the present case, effected from him is of non-commercial quantity of contraband, it being 90 tablets of Alprazolam from a transparent polythene bag thrown on the road. There is non-compliance of mandatory provisions of Section 50 of NDPS Act. No independent witness has been joined at the time of recovery. Charges stood framed on 16.09.2023 and none out of 9 prosecution witnesses has been examined. The petitioner is involved in one more case under the NDPS Act, wherein he is on bail. Reliance is placed on the judgment of Hon'ble The Supreme Court in **Maulana Mohd. Amir Rashadi vs. State of U.P. and others**, 2012(2) SCC 382.

3. The custody certificate dated 20.09.2023, filed by learned State counsel is taken on record. As per the same, the petitioner is behind bars for 6 months and 7 days.

4. Learned State counsel opposes the bail on the ground the petitioner was apprehended at the spot and non-commercial quantity of contraband was recovered from him. He is however unable to controvert the submissions made regarding the stage of the case and petitioner being on bail in another case.

5. Heard.

6. Hon'ble The Supreme Court in the case of **Maulana Mohd. Amir Rashadi** (supra) had held that, "As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc."

7. In **Sarabjeet Singh @ Sarbi vs. State of Punjab**, CRM-M-718-2023, decided on 24.03.2023, **Gursant Singh @ Santu vs. State of Punjab**, CRM-M-37944-2020, decided on 07.09.2021, the recovery, as in the present case, was effected from a transparent polythene bag wherein the accused was granted bail.

8. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last 6 months and 7 days; on bail in the other case wherein he is involved; non-commercial quantity of contraband has been recovered from him, therefore, rigors of Section 37 of

NDPS Act are not attracted in the present case; charges were framed on 16.09.2023 and out of 9 prosecution witnesses, none has been examined; the trial is likely to take a considerable time, thus his further incarceration would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

9. As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to his not being required in any other case. The petitioner shall abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
- (v) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- (vi) The petitioner shall not in any manner misuse his liberty.
- (vii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- (viii) The petitioner shall not leave the country without prior permission of the trial Court.

(ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

10. It is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

11. In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

21.09.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No