

219 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-39513 of 2021(O&M)

Date of Decision: 28.02.2023

Amrik Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Vinay Puri, Advocate
For the petitioner.**

Mr. C.L. Panwar, Addl. AG Punjab.

KARAMJIT SINGH, J.

The present petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case having FIR No. 109 dated 29.05.2021, registered under Section 22 of Narcotic Drugs and Psychotropic Substances Act (No.61) of 1985 (for brevity, the Act), at Police Station Division No.5, Police Commissionerate Jalandhar.

The counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and no such recovery as alleged by the prosecution was ever effected from the petitioner who is in custody for the last more than 01 year and 09 months and is not facing any other criminal case. The counsel for the petitioner further submits that as per the prosecution version police recovered 117 strips each containing 10 tablets of Nendia 0.50. The counsel for the petitioner further submits that as per the allegations made in the FIR and the recovery memo the alleged tablets were not bearing any batch number, date of manufacture and expiry date. The

counsel for the petitioner further submits that only one strip containing 10 tablets was sent as a sample for its analysis to FSL. The counsel for the petitioner further submits that in the absence of batch number and other particulars, the said one strip containing 10 tablets cannot be considered as representative sample of the entire contraband stated to be recovered from the petitioner. The counsel for the petitioner further submits that the alleged recovery was effected in violation of mandatory provision of Section 50 of the Act. The counsel for the petitioner further submits that it will take considerable time for the trial to conclude. So, prayer is made that the petitioner be released on regular bail.

The present petition is opposed by the State counsel who submits that in the present case recovery of commercial quantity of contraband was effected from the petitioner in compliance of the mandatory provisions of the Act. The State counsel further submits that as per report of FSL, one of the strips of 10 tablets which was sent for analysis was found to be containing alprazolam and the entire recovery comes under commercial quantity of contraband. However, the State counsel has not disputed the fact that the petitioner is in custody for the last more than 01 year and 09 months and is not involved in any other case under the Act.

I have considered the submissions made by counsel for the parties.

From the perusal of the police record which has been produced by the State counsel, it appears that 117 strips of Nendia 0.5 each containing 10 tablets were recovered in the present case. From the perusal of the FIR, recovery memo and copy of inventory, it is apparent that the same are silent

regarding batch number, date of manufacturing and expiry date of the medical intoxicants in question. In the given circumstances, it is debatable that in the absence of batch number, one strip containing 10 tablets sent for analysis to FSL, is to be considered as representative sample of the entire contraband recovered. Further, the petitioner is in custody for the last more than 01 year and 09 months and is having no criminal history. It will take considerable time for the trial to conclude. So, no useful purpose is going to be served by keeping the petitioner in custody for any longer period.

In the light of the above, without expressing any views on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned. However, in case the petitioner is found to be involved in any other similar case, in future, the State shall be at liberty to seek cancellation of bail granted to him by this Court.

28.02.2023

Jiten

Whether speaking/reasoned : Yes/No**Whether reportable : Yes/No****(KARAMJIT SINGH)
JUDGE**