

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-33928-2023 (O&M)
Date of decision : 05.09.2023

Jagdeep Singh ... Petitioner(s)
Versus
State of Punjab ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Yashpal Thakur, Advocate for the petitioner.
Mr. M.S. Tiwana, AAG Punjab.

ALKA SARIN, J. (ORAL)

1. This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail to the petitioner in FIR No.63 dated 27.03.2017 under Sections 21/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short the 'NDPS Act') registered at Police Station City Kharar, District SAS Nagar (Mohali) Punjab (Annexure P-1).
2. The first petition (CRM-M-2082-2022) was dismissed vide order dated 24.02.2022. In the first petition it was brought to the notice of this Court that the petitioner had been granted conditional bail till the receipt of the report of the chemical examiner and that he had failed to surrender before the Court at the time of filing of the challan on 07.06.2018 and that he was taken into custody on 24.08.2021 when he had surrendered.
3. Learned counsel for the petitioner would contend that totally wrong facts were brought to the notice of this Court and infact the petitioner

who was on interim bail had been appearing regularly before the Court. In the order dated 07.07.2018 which has been appended as Annexure P-9 with the present petition, the petitioner had been present in Court when the charges were framed. Even thereafter he had been present on all dates. It is further the contention that it is only on one date i.e. 12.07.2021 that the petitioner did not appear and notice was issued to the petitioner for 24.08.2021. On 24.08.2021 the petitioner was taken into custody. It is further the contention that it was not a case where the petitioner had jumped bail and not presented himself before the Court. Learned counsel has further contended that though the recovery in the present case is allegedly of 700 loose tablets of mark Allied containing salt of Diphenoxylate Hydrochloride, however, only 25 tablets were sent to FSL which is also apparent from the FSL Report appended with the present petition as Annexure P-6. Learned counsel would further contend that the petitioner has been in custody for a period of 02 years 02 months and 21 days and that there is one other case pending against the petitioner, however, he is on bail in the said case.

4. Learned counsel for the State has filed the custody certificate and as per the custody certificate the petitioner has been in custody for a period of 02 years 02 months and 21 days. Learned State counsel on instructions from SI Vilayati Ram has contended that there would be no requirement of filing a status report in the present case and that unfortunately the orders which have been appended now with the present petition were not brought to the notice of this Court.

5. Heard.

6. In the present case it is rather unfortunate that incorrect facts were brought to the notice of this Court in CRM-M-2082-2022 and the bail application was dismissed by this Court vide order dated 24.02.2022. As per the FSL Report, the recovery is marginally higher than the commercial quantity i.e. 54.6 grams of Diphenoxylate Hydrochloride. Even the FSL Report reveals that out of 700 loose tablets only 25 tablets were sent to the FSL for testing. As per the custody certificate, the petitioner has been in custody for a period of 02 years 02 months and 21 days and though there is one other case pending against the petitioner, however, he is on bail in the said case. The trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars any further.

7. In view of the above and without commenting upon the merits of the case, this Court deems it to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

8. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

9. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

10. Disposed off. Pending applications, if any, also stand disposed off.

05.09.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO