

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

**CRM-M-36691-2022
DECIDED ON: 10.01.2023**

LOVEPREET SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. K.S. Dadwal , Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

Prayer in this petition has been made for grant of Regular Bail under Section 439 Cr.P.C. during the pendency of trial in FIR No.109 dated 23.04.2019 under Section 22 of NDPS Act, 1985 registered at Police Station City Kharar, District SAS Nagar.

Learned counsel for the petitioner submits that in the alleged recovery has been shown in three boxes of *Alprazolam 0.5 MG*, each box containing 10 strips and each strip containing 60 tablets. From these three boxes, total 1800 tablets were recovered and 20 strips Tramadol 100 SR, each strips containing 10 tablets, total of which comes out to be 100 tablets and 20 tablets Tramadol 50.

Learned counsel for the petitioner contends that a ruqa was sent to the police station, for the purpose of registration of case at 1.50 PM and the FIR was registered at 15.14 hrs on 23.04.2019, which clearly shows that the

ASI was not aware with regard to the FIR number, however, the said detail finds mentioned on the recovery memo which casts serious doubt on the prosecution case because, the recovery memo ought to have been prepared at the time when FIR was registered, at 15.14 hrs on 23.04.2019. It is also contended that there is violation of Section 50 of NDPS Act, since the sample parcels were not drawn at the spot by ASI.

Learned counsel for the petitioner on the strength of aforesaid arguments submits that the petitioner has been falsely implicated in the present case.

On the other hand, learned State counsel has produced the custody certificate, which is taken on record. Perusal of the custody certificate shows that the petitioner has already suffered 1 year, 3 months and 25 days of custody. It is also pointed out that there is another case bearing FIR No.11 dated 29.01.2020 under Section 22 NDPS Act, registered at PS Garh Shankar, against the petitioner, though he is on bail in that case, having faced custody of 2 months and 5 days.

Learned State counsel further states that quantity recovered from the petitioner is commercial in nature and the issues raised in the petition at this stage for seeking concession of regular bail are debatable during the course of trial.

Be that as it may, he further asserts that the recovery of contraband was done as the case pertains to a manufacture drug.

On a query put by the Court, learned State counsel informs that there are total 10 witnesses out of which none has been examined so far despite the fact that charges have been framed on 04.02.2022.

Considering the fact that trial is likely to take some time and the

petitioner is behind the bars for the last 1 year, 3 months and 25 days, no fruitful purpose would be served by keeping the accused behind bars and particularly in the light of fact that the prosecution has not pointed out any reason for custodial interrogation and admittedly no recovery is to be effected.

Therefore, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate, concerned.

The present petition is, therefore, allowed.

(SANDEEP MOUDGIL)
JUDGE

10.01.2023

Meenu

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No