

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

**CRM-M No.36302 of 2023 (O&M)
Date of Decision: 22.08.2023**

Surjit Kailey

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Dinesh Kumar Prajapati, Advocate (Legal Aid Counsel)
for the petitioner.

Mr. Amish Sharma, AAG, Punjab for the respondent.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of bail pending trial to the petitioner in FIR No.38 dated 01.08.2019 (P-1), under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*), registered at Police Station Patara, District Jalandhar.

(2) Above FIR was got registered by ASI Harpreet Singh with the allegations that on 01.08.2019, he along with other police officials was present near Bridge of Canal in the area of Chandpur. At that time, petitioner along with co-accused Deepak Puri was travelling in Ertiga Car. Thereafter, they were apprehended by the police and 450 capsules of Rimadol-50 each weighing 382 mg.; 150 capsules of Rimadol-50 each weighing 376 mg. & 92 tablets of Tramadol each weighing 310 Mg. were recovered from them. Later on, co-accused Jatinder Batra was also apprehended under Section 29 of the

NDPS Act. As per the FSL report, the whole quantity of the contraband comes to 255 grams of Tramadol salt, which falls in the commercial category.

(3) It is contended by learned Counsel that initially, petitioner was granted regular bail by learned Judge, Special Court, Jalandhar vide order dated 10.10.2019; but due to his non-appearance, he was re-arrested on 28.07.2022 and since then, he is in custody. Also contended that petitioner has been falsely implicated in the present case. Again contended that co-accused has already been released on bail by learned Judge, Special Court; thus, petitioner be also released on the ground of parity.

(4) On the other hand, learned State Counsel, upon instructions, opposed the prayer while submitting that the contraband, recovered from the accused, is commercial in nature. Also submitted that petitioner is involved in three criminal cases and out of which, he has been convicted in two cases under the NDPS Act. Further submitted that petitioner along with other co-accused in connivance with each other transporting the narcotics. Lastly submitted that out of total 15 prosecution witnesses, 01 has already been examined.

(5) Heard both sides and perused the paper-book(s).

(6) Status Report by way of affidavit dated 10.08.2023 of Sh. Vijay Kanwarpal, DSP, Sub Division Adampur Jalandhar has been filed. The same is taken on record. Copy thereof supplied to the opposite side.

Perusal of para 10 of the aforesaid affidavit reveals that petitioner is a previous convict in two cases under the NDPS Act.

(7) The contention of learned Counsel for the petitioner that co-accused has already been released on bail, thus, he be also granted the similar

treatment on the ground of parity is unacceptable as petitioner is a previous convict; hence, the contention stands rejected.

(8) Although, learned Counsel for the petitioner tried to justify that sentence awarded in the earlier cases were of lesser period and he has already undergone the same; but that will not make any difference.

(9) Since petitioner is a previous convict under the NDPS Act; therefore, there is no option except to dismiss the present petition.

(10) Ordered accordingly.

(11) The above observations may not be construed as an expression of opinion on merits of the present case in any manner.

(12) Pending application(s), if any, shall also stand disposed off.

August 22nd, 2023
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes