

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

214

**CRM-M-40367-2022 (O&M)
DECIDED ON: 31st JANUARY, 2023**

JASPAL SINGH @ KEEMA

.....PETITIONER

VERSUS

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL.

Present: Mr. Chirag Girdhar, Advocate for
Mr. Gurpal Singh Sandhu, Advocate
for the petitioner

Mr. Rajiv Verma, DAG Punjab

SANDEEP MOUDGIL, J

CRM-32806-2022

Application is allowed, as prayed for.

CRM-M-40367-2022

The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in FIR No. 85, dated 02.07.2022, under Sections 22 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sadar Ahmedgarh, District Malerkotla.

Learned counsel for the petitioner submits that the alleged recovery of 500 loose intoxicating tablets was effected from the polythene lying on the road which did not belonged to the petitioner. The assertion is that the petitioner has been falsely implicated in the present case on the basis of suspicion and no independent witness has been joined. The petitioner is

behind the bars since 02.07.2022. It is further asserted that no FSL report has been received. In support of his arguments learned counsel for petitioner has further placed reliance upon the judgement rendered by this court in **CRM-M-40705-2022 titled as “ Raju kumar v. State of Punjab” decided on 12.09.2022** wherein, the court was pleased to grant bail considering the custody period suffered by the petitioner and also the fact that FSL report has been received and challan stands presented.

Learned State counsel has filed custody certificate of the petitioner and the same is taken on record. As per which the petitioner is behind bars for the last 7 months. He opposes the prayer made in the present petition stating that the recovery of 500 loose intoxicating tablets has been effected from the petitioner.

Admittedly, in the present case FSL report has yet not been received, therefore, it cannot be ascertained as to whether the recovery of alleged contraband comes within the purview of commercial or non-commercial quantity but it appears to be quite heavy. *Prima facie* while deciding the bail application the probability of influencing witnesses is one of the relevant factor and in the present case there is every possibility that the petitioner may influence the witnesses if released on bail.

A perusal of the FIR would show that on the basis of a secret information the police officials reached at the spot and found a person searching intoxicant tablets lying in a transparent envelope and on seeing the police party he tried to flee from the spot after throwing the said transparent envelope, however, he was apprehended from the spot and he disclosed his name as Jaspal Singh @ Keema-petitioner.

The question to release the petitioner on regular bail does not arise at all because Before granting bail, the court is called upon to satisfy itself that there are reasonable grounds for believing that the accused is innocent of the offence and that he is not likely to commit any offence while on bail, the allegations of the fact, the police report have to be closely examined before recording a finding as to whether the conditions given under the said section, are fulfilled or not.

Reliance can be placed on the judgment of this Court rendered in the case of “Dharminder Singh vs. State of Punjab”, CRM-M-60983-2022, decided on 27.12.2022 wherein, it has been held as under:

The Court is also not expected to weigh the evidence for arriving at a finding as to whether the accused has committed an offence under the NDPS Act or not. The entire exercise that the Court is expected to undertake at this stage is for the limited purpose of releasing him on bail. Thus, the focus is on the availability of “reasonable grounds” for believing that the accused is not guilty of the offences that he has been charged with and he is unlikely to commit an offence under the Act.

Section 37(1)(b) of the NDPS Act, 1985 imposes limitations on granting bail in addition to those provided under the code. The two limitations are: An opportunity for the public prosecutor to oppose the bail application and Satisfaction of the court that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail.

The limitations on granting bail come in only when the question of granting bail arises on merits. Apart from the grant of opportunity to

the public prosecutor, the other twin conditions which really have relevance so far the present accused is concerned, are: the satisfaction of the court that there are reasonable grounds for believing that the accused is not guilty of the alleged offences and he is not likely to commit any offence while on bail.

The conditions are cumulative and not alternative. The satisfaction contemplated regarding the accused being not guilty has to be based on reasonable grounds. The expression “reasonable grounds” means something more than prima facie grounds. It contemplates substantial probable causes.

The reasonable belief contemplated in the provision requires the existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence and he is not likely to commit any offence while on bail.

The drug menace in the State of Punjab is writ large and major number of youth are falling prey at the hands of such mafia. The role of the petitioner is not that of law abiding citizen as is evident from the record before this Court. With deep concern it is of utmost importance at this stage to say that clandestine smuggling of narcotics drugs and psychotropic substance has led to drug addiction among a sizeable section of the public, particularly the adolescence and students of both sexes and the menace has assumed serious and alarming proportions in recent times. It has to be borne in mind that in a murder case the accused commits murder of one or two persons, while those persons who are dealing in a narcotic drugs are instrumental in causing death or inflicting death blow to a number of innocent

young victims, who are vulnerable; it causes deleterious effects and a deadly impact on the society; they are a hazard to the society; even if they are released temporarily, in all probability, they would continue their nefarious activities of trafficking and/or dealing in intoxicants clandestinely obviously for large stake and easy illegal profit making mode. In the present prevailing scenario, the drug trafficking, trading and its use has acquired dimensions of an epidemic which not only effects the economic policies of the State but corrupts the system apart from leaving the impact of producing sick society. Therefore, these types of people should be dealt with stern and arduous actions.

In view of above, this Court is of the considered view that the petitioner is actively involved in selling of the drugs and there is no material evidence to establish innocence of the petitioner, hence, the question of admitting him on bail does not arise at all.

Accordingly, the petition stands dismissed.

31st JANUARY, 2023
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(SANDEEP MOUDGIL)
JUDGE

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No