

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-40439-2023

Date of Decision:-24.08.2023

Shagan Lal.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Jagjit Singh Gill, Advocate for the Petitioner.

Ms. Ramta K Chaudhary, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.74 dated 21.05.2021 under Sections 22(c) and 29 of NDPS Act registered at Police Station Bahavwala, District Fazilka, Punjab.

2. The brief facts of the case are that while the police party was on patrolling duty an information was received that Deepak Kumar @ Deepu (since granted bail vide order dated 03.08.2023 in CRM-M-30556-2023), Baljinder Singh (since granted bail vide order dated 29.05.2023) and Kulwant Singh @ Pala (since granted bail vide order dated 03.08.2023) would be bringing intoxicating tablets from Rajasthan and would sell the same. They were travelling in a car bearing registration no.RJ-14-8C-3819 and if a *nakabandi* was set up they could be apprehended along with tablets.

During the course of investigation, the statement of Deepak Kumar was recorded wherein he confessed that he had sold tablets to

petitioner-Shagan Lal. Consequently, the petitioner was nominated in this case as accused vide DDR No.41 dated 27.5.2021. On his arrest he made a disclosure statement and thereafter got recovered 900 loose intoxicant tablets subsequently found to contain Alprazolam Salt.

3. The Counsel for the petitioner contends that the co-accused of the petitioner have been granted the concession of bail vide orders dated 03.08.2023 (Annexure P-4), dated 10.02.2023 (Annexure P-5) and dated 29.05.2023 (Annexure P-6). As the petitioner was in custody since 27.05.2021 and only 04 of the 18 prosecution witnesses had been examined so far, he was entitled to the concession of bail even though there was one other case registered against him bearing FIR No.163 dated 4.8.2019 under Sections 15/22/61/85 of the NDPS Act, P.S. Lambi in which he had been granted the concession of bail.

4. The Counsel for the State on the other hand contends that the co-accused of the petitioner had been granted bail as there were no other cases registered against the said accused. So far as the present petitioner was concerned he was an accused in another case and, therefore, the satisfaction as required under Section 37 of the NDPS Act could not be recorded, the recovery being of commercial quantity of contraband. She however concedes that the petitioner is in custody since 27.05.2021 and only 04 of the 18 prosecution witnesses have been examined so far.

5. I have heard the learned counsel for the parties.

6. Admittedly, the petitioner is an accused in other case under the NDPS Act bearing FIR No.163 dated 04.08.2019 under Sections 15/22/61/85 of the NDPS Act, P.S. Lambi, though he has been granted the concession of bail in the said case. Pursuant to the registration of the FIR No.163 dated 04.08.2019, the instant FIR had been registered on

21.05.2021. In view of the fact that there is one more case registered against the petitioner, the satisfaction as required under Section 37 of the NDPS Act cannot be recorded that the petitioner has not committed an offence and was not likely to commit the offence. Therefore, even though the co-accused have been granted the concession of bail, the petitioner is not entitled to the similar concession.

7. In view of the above, I find no merit in the present petition and the same stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

August 24, 2023
Vinay

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