

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-45737-2022 (O&M)
Date of decision: 11.04.2023

Jaswinder Kaur @ Mukko

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. J.S. Warring, Advocate for the petitioner.

Ms. Ishma Randhawa, Addl. AG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Through this second petition, the petitioner seeks regular bail in case bearing FIR No.10 dated 10.02.2021, registered at Police Station Sadar Rampura, District Bathinda, under Sections 22 and 29 (added later on) NDPS Act, 1985. The earlier petition was dismissed as withdrawn on 18.05.2022.

Status report by way of affidavit dated 09.04.2023 of the Deputy Superintendent of Police, Sub-Division Phul, District Bathinda, submitted by the learned State counsel in the Court, is taken on record.

As per the case of prosecution, recovery of 118 strips of tablets labelled as RADOL-100 Tramadol Hydrochloride 100 mg. SR Tablets having 10 Tablets each and 34 strips of Tablets labelled as ALZO-5 Alprazolam having 10 Tablets each, had been effected from the possession of the petitioner.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that though the intoxicating

tablets recovered in the present case, fall under the commercial quantity, yet the fact remains that the petitioner has been in custody since 10.02.2021 and out of 11 prosecution witnesses, only 05 have been examined so far. In such circumstances, conclusion of the trial would take time. Moreover, the petitioner is not involved in any other case, much less of a similar nature.

Learned counsel for the petitioner further contends that co-accused, namely, Manga Singh-husband of the petitioner, is on bail. The recovery has already been effected. In support of his contentions, learned counsel for the petitioner relies upon the orders passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No.5769-2022, titled as 'Nitish Adhikary @ Bapan Vs. State of West Bengal', on 01.08.2022; Special Leave to Appeal (Crl.) No.4173-2022, titled as 'Shariful Islam @ Sarif Vs. State of West Bengal', on 04.08.2022 and order dated 25.01.2023, passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No(s).6690/2022, titled as 'Dheeraj Kumar Shukla Vs. State of Uttar Pradesh'.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that the intoxicating tablets recovered in the present case, fall under the commercial quantity and the case of the petitioner is hit by the bar contained under Section 37 NDPS Act. She further submits that the material witnesses are yet to be examined. However, she does not dispute the custody period of the petitioner.

I have heard the learned counsel for the parties.

The petitioner has been in custody since 10.02.2021. Out of 11

prosecution witnesses, 05 have been examined so far. The conclusion of the trial will take a long time. There is no other case under the NDPS Act against the petitioner. All these facts persuade this Court to grant bail to the petitioner despite the rigors of Section 37 NDPS Act in the present case. Therefore, no useful purpose would be served by keeping the petitioner behind the bars. As stated above, the co-accused has since been granted the concession of anticipatory bail.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on her furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

(HARNARESH SINGH GILL)
JUDGE

11.04.2023
Mangal Singh

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