

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

CRM-M No.44110 of 2023 (O&M)

Date of decision : 09.11.2023

Lakha Masih

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mrs. Anupam Bhanot, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

PANKAJ JAIN, J. (ORAL)

1 This petition has been filed under Section 439 Cr.P.C. for grant of regular bail in case F.I.R. No.238 dated 24.12.2014 registered under Sections 22/61/85 of NDPS Act at Police Station Jhabal, Tarn Taran.

2 The petitioner was booked after having been found to be in possession of 200 grams of intoxicant powder. He was ordered to be released on bail, however, he absented himself on 19.08.2021 and was declared as proclaimed offender on 17.10.2022. The petitioner was again arrested on 22.02.2023 since then he is behind bars.

3 Learned counsel for the petitioner submits that the petitioner after having been granted bail was regularly appearing before the trial Court. However, owing to ailment of his wife, he absented on one

occasion leading to cancellation of his bail bonds. The quantity of contraband is less than commercial quantity and thus rigorous of Section 37 of the Act will not be applicable. The petitioner being behind bars for about 9 months by now has learnt his lesson and undertakes to appear before the trial Court regularly.

4 *Per contra*, learned State counsel submits that keeping in view the conduct of the petitioner of having misused the concession of regular bail, he does not deserve to be released on bail.

5 Having heard rival contentions, it is discernible from the facts of the present case that the petitioner was booked in 2014. Admittedly, he continued to appear before the trial Court till 19.08.2021 i.e. for 7 years. The trial could not conclude in those 7 years. Thus keeping in view the fact that the petitioner was being denied right to expeditious trial and by balancing the equities, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned. However, in addition to conditions that may be imposed by the Trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions :-

- (i) *The petitioner shall not mis-use the liberty granted.*
- (ii) *The petitioner shall not tamper with any evidence oral or documentary during the trial.*
- (iii) *The petitioner shall not absent himself on any date before the trial.*
- (iv) *The petitioner shall not commit any offence while on bail.*
- (v) *The petitioner shall deposit his passport, if any with the trial Court.*
- (vi) *The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number without permission of the trial Court.*
- (vii) *The petitioner shall not in any manner try to delay the trial.*

6 Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

09.11.2023
Pooja sharma-I

Whether speaking/reasoned
Whether Reportable :

Yes
No

(PANKAJ JAIN)
JUDGE