

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

206

**CRM-M-51445-2021
Date of decision: 07.02.2023**

Jagroop Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Tanvir Singh Grewal, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

This is the first petition filed under Section 439 of the Cr.P.C. for grant of regular bail to the petitioner in case FIR No.23 dated 25.01.2020 lodged under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station City Sunam, District Sangrur.

Learned counsel for the petitioner has vehemently contended that the FIR in question (Annexure P-1) was registered on the basis of a secret information to the effect that the petitioner had been purchasing intoxicants from his source in Haryana and thereafter selling them to different persons. While drawing the attention of this Court to the FIR, learned counsel further submits that as per the secret information one Mithu Singh had been giving money to the petitioner for the purchase of the intoxicant tablets and whatever money was earned after the sale of the intoxicant tablets, was distributed amongst themselves. Learned counsel contends that, however, in the final report submitted under Section 173 of the Cr.P.C., investigating agency had

come up with an altogether different version which was at complete variance with the secret information allegedly received by it. In support, learned counsel has drawn the attention of this court to the final report which has been annexed as Annexure P-2 wherein it stands mentioned that on the fateful day the petitioner had left his house to purchase some intoxicant tablets for his personal use as he was a drug addict, after taking money from different persons. Learned counsel has argued that it was thus evident that the alleged contraband had been planted upon the petitioner and no secret information as alleged had been received by the investigating agency. Learned counsel further submits that the weight of the 1020 tablets (34 strips containing 30 tablets each) marked Diphenoxylate Hydrochloride and Atropine Sulphate Tablets IP Lomotil and 480 loose tablets allegedly effected from a black coloured polythene bag thrown by the petitioner, as per the FSL Report (Annexure P-3) was 63.24 grams (Diphenoxylate Hydrochloride) which was marginally higher than the minimum prescribed under the commercial category and the weight of Alprazolam allegedly recovered was just 61.44 grams which fell under non-commercial category. Learned counsel has further submitted that the petitioner has now been in custody for more than 03 years, having been arrested on 25.01.2020, and only 03 out of the 13 prosecution witnesses cited have been examined till now.

A pointed query was put to the learned counsel for the petitioner as to whether the petitioner was involved in any other case under the NDPS Act, to which he has replied in the negative.

Per contra, learned State counsel on instructions has not

been able to dispute the submissions made by the counsel opposite qua contrary versions having been brought forth in the FIR which was registered on the basis of a secret information and the final report submitted by the police under Section 173 of the Cr.P.C. He has on further instructions not disputed that the petitioner is not involved in any other criminal case under the NDPS Act.

I have heard learned counsel for the parties and perused the material placed on record.

The petitioner has been in custody for more than 03 years having been arrested on 25.01.2020 for having been found in possession of 1020 tablets (34 strips containing 30 tablets each) marked Diphenoxylate Hydrochloride and Atropine Sulphate Tablets IP Lomotil and 480 loose tablets. The trial is unlikely to conclude in the near future as 10 prosecution witnesses remain to be examined. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

Accordingly, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the Trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

07.02.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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