

CRM-14958-2023 in/and
CRM-M-51001-2022

-1-

2023:PHHC:055831

211+107

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-14958-2023 in/and
CRM-M-51001-2022
Date of Decision: 18.04.2023

Jatin Kumar Batra

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Ms. Kamlesh, Advocate
for the applicant/petitioner.

Mr. Harjinder Singh Sidhu, AAG, Punjab.

HARSH BUNGER J. (ORAL)

CRM-14958-2023:

Prayer in the present application is for placing on record copy
of Forensic Science Laboratory Report as Annexure P-3.

For the reasons mentioned in the application, copy of Forensic
Science Laboratory Report is taken on record as Annexure P-3, subject to
all just exceptions.

Application is accordingly disposed of.

CRM-M-51001-2022:

Petitioner (Jatin Kumar Batra) has filed the present petition
under Section 439 of the Code of Criminal Procedure seeking grant of

regular bail in case bearing FIR No.237 dated 18.09.2022, under Section 22 of the Narcotic Drugs and Psychotropic Substances Act and Section 52-A of the Prisons Act, registered at Police Station City Hoshiarpur.

2. Status report by way of affidavit dated 15.03.2023 of Mr. Palwinder Singh, P.P.S., Deputy Superintendent of Police, Sub Division City, District Hoshiarpur has been filed, which is already on record.

3. Custody certificate dated 17.04.2023 of the petitioner is filed by learned State counsel in Court today, which is taken on record, subject to all just exceptions.

4. Succinctly, the aforesaid FIR was registered on complaint of Assistant Superintendent, Central Jail, Hoshiarpur, wherein it was stated that on 18.09.2022, a person was apprehended by the QRT Duty officials, while throwing a packet inside the jail from in between the towers No.2 and 3, however, the same could not reach its destination due to its heaviness, and upon interrogation, the apprehended person disclosed his name as Jatinder Kumar Batra, i.e. the petitioner herein. Further, from the aforesaid packet, 25 grams of intoxicant powder and one mobile phone marka Samsung without sim, one data cable, one head phone, five bundles of *beedis* and five tobaccoo *puris* were recovered.

5. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present FIR No.237 dated 18.09.2022 as no recovery was effected from his conscious possession. It is stated that no independent witness was joined at the time of arrest of the petitioner in this case. Learned counsel contends that as per the Forensic Science Laboratory Report (Annexure P-3), the alleged recovery of 25 grams of intoxicating

commercial quantity and does not attract bar under Section 37 of the Narcotic Drugs and Psychotropic Substances Act.

6. Learned counsel submits that the petitioner had applied for grant of regular bail before the Judge, Special Court, Hoshiarpur, which was wrongly declined vide order dated 26.10.2022 (Annexure P-2). It is contended that co-accused, namely Hans Raj, has already been granted the concession of regular bail by this Court vide order dated 11.04.2023 passed in CRM-M-205-2023 titled as ***“Hans Raj Vs. State of Punjab”***. Learned counsel for the petitioner states that petitioner is in custody for a period of six months and twenty seven days (as on 17.04.2023), investigation of case is complete, challan has already been submitted on 17.11.2022 and charges are yet to be framed. Hence, conclusion of trial will take some time and no useful purpose would be served with further incarceration of the petitioner. Learned counsel for the petitioner submits that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court, accordingly prayer for grant of regular bail is made.

7. Learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness of offences. He submits that as per custody certificate dated 17.04.2023, the petitioner is involved in six other cases under the Prisons Act, however, it is fairly submitted by learned State counsel that the petitioner has been released on bail in all those cases. It is not disputed by learned State counsel that the petitioner is in custody for a period of six months and twenty seven days (as on 17.04.2023) in the present case. Further, while referring to status report dated 15.03.2023, learned State counsel also concedes the facts that investigation in this case is complete, challan stands submitted and charges are yet to be framed. It is

also not disputed that co-accused, namely Hans Raj, has already been granted the concession of regular bail.

8. I have heard learned counsel for the parties and perused the paper book, status report as well as custody certificate of the petitioner supplied by learned State counsel in Court today.

9. In this case, the petitioner is in custody for a period of six months and twenty seven days. The alleged recovery of 25 grams of *Alprazolam* from the petitioner is a non-commercial quantity and does not attract rigors of Section 37 of the Narcotic Drugs and Psychotropic Substances Act. As per status report dated 15.03.2023, investigation in this case is complete, challan stands presented on 17.11.2022 and charges are yet to be framed. Hence, trial in the case is likely to take long time and no useful purpose would be served by keeping the petitioner behind bars.

10. Keeping in view the aforementioned circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of case/trial and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity. The petitioner shall also appear before the concerned

Police Station/Station House Officer on first Monday of every month till the

conclusion of trial and on each such appearance, the petitioner shall submit an affidavit to the concerned Police Station/Station House Officer that he is not involved in any other case, apart from the cases which are stated to be pending against him in the custody certificate dated 17.04.2023.

11. In addition, the petitioner (or anyone on his behalf) shall prepare a Fixed Deposit Receipt (F.D.R.) in the sum of Rs.50,000/- and submit the same with the trial Court. The same would be liable to be forfeited as per law, in case the petitioner remains absent from trial without any sufficient cause.

12. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

13. The petition is accordingly disposed of.

18.04.2023
Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No