

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

203

CRM-M-53539-2022 (O&M)  
Date of decision: 25.08.2023

Avtar Singh @ Saba

...Petitioner

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Sourabh Arora, Advocate for the petitioner.

Mr. Digvijay Nagpal, AAG, Punjab.

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**VIKAS SURI, J. (Oral)**

1. Prayer in the present petition under Section 439 Cr.P.C. is for grant of regular bail in case FIR No.74 dated 26.06.2018, under Sections 302, 307, 34 IPC and Sections 21 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station Jhabal, District Tarn Taran.
2. Custody certificate of the petitioner dated 24.08.2023 has been filed by learned State counsel, which is taken on record. A copy thereof furnished to learned counsel for the petitioner.
3. Learned counsel for the petitioner has contended that the petitioner is in custody since 18.05.2020; his co-accused i.e. his wife namely Kulwinder Kaur @ Babli has already been granted the concession of regular bail by this Court, by virtue of order dated 14.09.2022 (Annexure P-3). Learned counsel for the petitioner further submitted that the deposition of complainant Harjit Singh has been recorded, who has not supported his

earlier version given to the police during the investigation and resiled as such. Furthermore, no medical examination was conducted on the dead body of deceased which could corroborate the version of prosecution that he died due to intoxication. Therefore, he prays that the present petition be accepted.

4. On the other hand, learned State counsel opposes the present petition tooth and nail. He submits that the petitioner is involved in two more cases, out of which one is under the NDPS Act, therefore, the present petition deserves to be dismissed.

5. I have heard learned counsel for the parties and perused the record.

6. As per status report filed on behalf of the State, 310 gms of intoxicant powder was recovered from the petitioner, which is quite substantial and comes within definition of commercial quantity, attracting bar of Section 37 of the NDPS Act. This section clearly provides that every offence punishable under the Act shall be cognizable and no person accused of an offence involving commercial quantity etc., shall be released on bail, if the petition is opposed by the Public Prosecutor, unless, the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and he is not likely to commit any offence while on bail. In light of the facts and circumstances of the case, I do not find any reason to record satisfaction required by the aforesaid provision.

7. The argument raised by learned counsel for the petitioner that the complainant has turned hostile lacks merit, since no material has been placed on record or referred to by him to justify the said contention. Moreover, as per FSL report, the contraband so recovered from the petitioner was having ingredients of '*Tramadol Hydrochloride*' and the

quantity recovered from the petitioner comes within the ambit of commercial quantity. The petitioner is also involved in two other cases also.

8. Therefore, keeping in view the seriousness and gravity of the offence, the quantity of the contraband, the antecedents of the petitioner and bar created by Section 37 of NDPS Act, the petitioner is not entitled to grant of regular bail. The instant petition is bound to fail and is dismissed as such.

9. The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall not be influenced by the same.

August 25, 2023  
*sumit.k*

**(VIKAS SURI)**  
**JUDGE**

Whether speaking/reasoned : Yes / No

Whether Reportable : Yes / No