

218 (2)

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

**CRM-M-54941-2022
Date of Decision: 28.02.2023**

Kashu @ Kash

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. G.S. Sandhu, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. AG, Punjab.

HARSH BUNGER J. (ORAL)

Prayer in the present petition, filed under Section 439 of the Code of Criminal Procedure, is for grant of regular bail to the petitioner in case FIR No.0166 dated 09.07.2022 (wrongly mentioned date as 10.07.2022 in order passed by learned Sessions Court annexed as Annexure P-2), under Sections 15, 21, 22, 22(b) of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station City Sri Muktsar Sahib, District Sri Muktsar Sahib.

Custody certificate dated 25.02.2023 of the petitioner has been filed by learned State counsel in Court today, which is taken on record, subject to all just exceptions.

Learned counsel for the petitioner submits that the petitioner

has been falsely implicated in the present FIR on the basis of secret information received against the accused persons, wherein it is alleged that they are smugglers and if raid be conducted, then poppy husk, heroin and intoxicant tablets in huge quantity can be recovered. Finding the information reliable, a ruqa was sent and FIR was registered against accused persons.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in this case on the basis of a disclosure statement of co-accused vide DDR No. 1 dated 10.07.2022. During investigation, petitioner / accused (Kashu) was arrested and from his possession, allegedly 195 tablets of Alpracan-0.5 containing salt Alprazolam were recovered. It is contended that the said recovery was infact made from thoroughfare and no independent witness was joined. It is further submitted that the alleged recovery made from the petitioner is less than the commercial quantity. Learned counsel next submits that the co-accused namely, Jasvir Kaur has already been granted regular bail vide order dated 17.10.2022 (Annexure P-3) passed by a co-ordinate bench of this court in CRM-M-42299-2022.

Learned counsel for the petitioner submits that the petitioner belongs to a good family and he has been in custody since 10.07.2022 and there is no other case under NDPS Act against the petitioner. Learned counsel next submits that the conclusion of trial would take some time and 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.

Learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness of the offence, however, it is not disputed that the petitioner has been in custody for more than seven months

and there is no other case under NDPS Act against the petitioner and co-accused namely, Jasvir Kaur has been granted regular bail vide order dated 17.10.2022 (Annexure P-3) passed by a co-ordinate bench of this court in CRM-M-42299-2022.

I have heard learned counsel for the parties and perused the paper book as well as the custody certificate filed by learned State counsel, in Court today.

In this case, the petitioner has been in custody for the last more than 7 months, there is no other case under NDPS Act against the petitioner and co-accused namely, Jasvir Kaur has been granted regular bail vide order dated 17.10.2022 (Annexure P-3). A perusal of order dated 17.10.2022 (Annexure P-3) passed in CRM-M-42299-2022 would further show that there are other co-accused also, namely Manjeet Kaur and Kukhjeet Kaur @ Mandeep kaur, who have also been granted bail vide order dated 13.09.2022 passed in CRM-M-40996-2022 and CRM-M-39961-2022, respectively. The trial is likely to take long time and no useful purpose would be served by keeping the petitioner behind the bars.

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 and any change in the address shall also 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.

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.

The petition is accordingly disposed of.

28.02.2023

Himani

(HARSH BUNGER)
JUDGE

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