

101.

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

CRM-M-55253-2022 (O&M)

Date of Decision: 15.03.2023

VICKY KUMAR ALIAS VICKY

.... Petitioner

Versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Rishu Garg, Advocate, for the petitioner.

Ms. Niharika Sharma, AAG, Punjab.

JAISHREE THAKUR.J (Oral)

This is second petition that has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.0196, dated 25.07.2020, under Section 22 of the NDPS Act, 1985, registered at Police Station Gate Hakima, District Amritsar.

The allegation against the petitioner is that recovery of 800 intoxicating capsules was effected from him. He was taken in custody on 25.07.2020, but due to non-receipt of Chemical Examiner Report regarding the fact the quantity falls within the ambit of commercial or non-commercial, he was released on interim bail vide order dated 09.09.2020 as passed by the Additional Sessions Judge, Amritsar. However, on receipt of Chemical Examiner Report, his interim bail was cancelled on 12.08.2021.

The petitioner had earlier approached this Court by way of CRM-M-53588 of 2021, which petition was dismissed as not pressed vide order dated 22.02.2022.

Learned counsel appearing on behalf of the petitioner would contend that the petitioner herein has been falsely implicated in the aforesaid

FIR. There is no other case against him. He is suffering from hip joint problem. The trial in the case will take long time to conclude.

Per contra, learned counsel appearing on behalf of the respondent-State would oppose the regular bail of the petitioner on the ground that recovery effected from the petitioner was of commercial quantity and thus the bar under Section 37 of the NDPS Act would apply to the present case. Status report has been filed, which is taken on record. She would submit that there is no other case against the petitioner. Out of 10 witnesses cited, only 5 have been examined. The challan was presented on 26.05.2021.

I have heard learned counsel for the parties and in view of the fact that the trial in the case will take some time to conclude as out of 10 witnesses cited by the prosecution, only 5 witnesses have been examined so far, deem it appropriate to release the petitioner on regular bail.

Accordingly, the instant petition is allowed and the petitioner is directed to be released on regular bail on execution of adequate personal bond and surety bond to the satisfaction of concerned trial Court/Duty Magistrate.

Any observation made herein shall not be construed to be an expression of opinion on merits of the case and the trial Court shall decide the case on the evidence available before it.

(JAISHREE THAKUR)
JUDGE

15.03.2023

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No