

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

273

**CRM-M-55411-2022
Date of decision: 13.03.2023**

CHANDAN KUMAR @ CHANDU

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. L.S. Sekhon, Advocate
for the petitioner.

Mr. Karanjit Singh, Addl. A.G. Punjab

VINOD S. BHARDWAJ. J. (ORAL)

This is a second petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No. 89 dated 23.12.2020 registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Maloud, Police District Khanna, District Ludhiana.

2. Briefly summarized the case of the prosecution is that a secret information was received by the police party on 23.12.2020 that Gurpreet Singh (co-accused of the petitioner) is involved in the business of selling intoxicant tablets and that he is on his way from Ahmedgarh towards Siar. He was informed to be in possession of having quantity of intoxicant tablets. Finding the aforesaid information to be credible, the FIR was registered against co-accused Gurpreet Singh and barracading was conducted. The co-accused Gurpreet Kaur was, thereafter, apprehended by the police. Formal search of Gurpreet Singh was conducted and 900 tablets make Clavidol-100-SR and 540

intoxicant tablets make Alprasafe 0.5 were recovered from his possession. The aforesaid quantity was stated to be non-commercial as the tablet Alprasafe having the ingredient of Alprazolam fell under the NDPS Act. A disclosure of Gurpreet Singh was recorded wherein he stated that he had secured the supply of the contraband from the petitioner. Accordingly, the petitioner was arrayed as an accused under Section 29 of the NDPS Act. He was apprehended on 25.12.2020 and is in custody since then. A recovery of 1000 tablets make RL-DOL-100 SR was recovered at the disclosure of the petitioner herein. The said quantity is commercial in nature.

3. Counsel for the petitioner contends that the petitioner is in custody since 25.12.2020 and that even though charge against the petitioner had been framed on 16.11.2021, however, no evidence has been recorded so far. As many as 15 witnesses has been cited by the prosecution and the case is fixed for 30.03.2023 for recording of the witnesses. Conclusion of the trial shall take long. He further contends that the recovery in question was effected from an open space and the contraband in question cannot be said to be in sole possession of the petitioner. Further, no independent witness has joined during the recovery process and as such the recovery is suspicious.

4. Counsel for the respondent-State does not dispute the aforesaid submissions and the fact that no evidence has been examined so far. Even though the custody of the petitioner is nearly 02 years 02 months and 20 days. He, however, contends that the petitioner had yet another case registered against him under the NDPS Act.

5. Counsel for the petitioner contends that the petitioner was

convicted for a period of 02 years and the said case and has already undergone a sentence therein and there is no other case under the NDPS Act registered against the petitioner.

6. I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their assistance.

7. Taking into consideration the circumstances noticed above, the period of custody, the stage of the trial as well as the fact that co-accused of the petitioner is enlarged on bail, I deem it appropriate to enlarge the petitioner on bail upon furnishing bail bonds/surety bonds to the satisfaction of the Trial Court.

8. The instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing the requisite bail bond/surety to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

10. The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of the material available.

The petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

MARCH 13, 2023

Vishal sharma

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