

**217 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

2023:PHHC:052382

CRM-M-56461-2022

Date of Decision: 17.04.2023

RAM SINGH

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Rajesh Bhatheja, Advocate for the petitioner.
Ms. Ruchika Sabherwal, DAG Punjab.

* * *

VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in case bearing FIR No. 271 dated 24.12.2017 under Section 22 of Narcotic Drugs and Psychotropic Substances Act, registered at Police Station Baghapurana, District Moga.

Custody certificate has been taken on record.

As per the allegations, 25 gms of intoxicant powder was recovered from the possession of the petitioner and he was granted regular bail by the learned Judge, Special Court, Moga. During the course of trial, the petitioner had absented from the proceedings on 23.02.2021 and was declared as proclaimed offender in terms of the order dated 04.08.2022. The reason assigned for non-appearance is to the effect that the petitioner had mistaken the date of hearing and his arrest was effected on 03.10.2022.

Learned State counsel has opposed the bail application on the score that the petitioner remained absent for a period of about 1½ years and his non-appearance has resulted in delay of trial. Furthermore, the petitioner was declared proclaimed offender. It is not a case that he has surrendered of his own. Had the petitioner mistaken the date of hearing, he would have made efforts to verify the correct date and surrender in the learned trial

Court.

Be that as it may, the quantity of contraband recovered from the possession of the petitioner falls in the category of less than commercial quantity. As such, the stringent provisions of Section 37 of the NDPS Act are not attracted in the instant case. Although, the petitioner has been declared proclaimed offender and his presence was procured by way of his arrest but it is significant to note that thereafter he is in custody for a period of about 6½ months. The petitioner has suffered sufficient incarceration for the lapse on his part in absenting from the proceedings. Moreover, the petitioner is not stated to be involved in any other case much less any case under NDPS Act. The conclusion of trial is likely to take some more time and no fruitful purpose would be served by detaining the petitioner in further custody.

As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

17.04.2023

Janki

(VIVEK PURI)
JUDGE

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