

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

CRM-M-55036-2023

Date of Decision:16.11.2023

Avtar Singh @Shanty

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Yugank Goyal, Advocate with
Mr. Ankit Tayal, Advocate and
Mr. Baban Goyal, Advocate
for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 Cr.PC with a prayer to grant regular bail in case FIR No. 74 dated 24.04.2023, under Sections 22 and 29 of NDPS Act, registered at Police Station Dharamkot, District Moga, Annexure P-1.

2. Learned counsel for the petitioner contends that in the present case, the FIR was initially registered against Balwant Singh only, from whom 45 intoxicant tablets namely Etizolam weighing 0.43 MG/tablets were recovered. After the said recovery, Balwant Singh @ Manna was arrested by the police. Learned counsel for the petitioner next contends that the petitioner was not named in the FIR and there is no averment in the FIR, which connects the petitioner with the commission of crime. He further vehemently argued that he has been nominated on the basis of the disclosure statement suffered by co-

accused and recovery of 20 tablets of Tramadol has been planted on him by the police. As per him, the total weight of the said tablets comes out of 7.34 grams and the said quantity is “non-commercial” in nature and the provisions of Section 37 of the NDPS Act would not apply to the facts of the present case.

3. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that two more cases have been registered against the present petitioner. However, he admits that he is on bail in one case and in other case he has been convicted.

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

5. It is not in dispute that the petitioner was arrested in the present case on 24.04.2023 and the petitioner can never be confined in jail for an indefinite period as the Hon'ble Supreme Court in the matter of ***Prabhakar Tewari Vs. State of U.P., and another 2020(1) R.C.R. (Criminal) 831*** has held that the pendency of several criminal cases against the accused cannot be the basis to refuse the prayer of bail. Similar observations have been made by the Hon'ble Supreme Court in the matter of ***Maulana Mohd. Amir Rashadi Vs. State of U.P., and another 2012(1) R.C.R. (Criminal) 586***. Apart from that, the main accused Balwant Singh @ Manna has already been granted the concession of regular bail by this Court vide the order dated 21.08.2023 (Annexure P-2).

6. Without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial on his furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate subject to the following conditions:-

(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.

(vi) In case, the petitioner is involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.

(vii) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.

(viii) The petitioner shall report every 1st Monday of English calender month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the Rojnamcha.

7. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

16.11.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

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