

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

267

CRM-M- 2181of 2024 (O&M)
Date of decision : 02.04.2024

Mohd. Rashid @ Anda @ Mohammad Rashid
.....Petitioner

vs.

State of Punjab
.....Respondent

CORAM : HON’BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Swarn Tiwania, Advocate for the petitioner.

Mr.Vishnav Gandhi, Deputy Advocate General,
Punjab.

...

RAJBIR SEHRAWAT J. (Oral)

1. The present second petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of bail pending trial in case FIR No. 0067 dated 02.03.2022, registered under Sections 22/29/61/85 of Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station City-I, Malerkotla.
2. The counsel for the petitioner has submitted that the case against the petitioner is totally frivolous and concocted one. The petitioner is not involved in the case as alleged against him. Even as per the story of the prosecution, the petitioner was allegedly found in possession of about 3000 intoxicant tablets of Alprazolam. However, the petitioner is in custody since 02.03.2022 and charges have not

been framed against the petitioner so far, despite the fact that he has been in custody for more than 2 years as of now. The investigation of the case is complete and challan has already been filed. The petitioner is not required for any investigation purposes. The counsel for the petitioner has relied upon the judgments referred by the Hon'ble Supreme Court in the cases of Nitish Adhikary @ Bapan Vs. The State of West Bengal vide order dated 01.08.2022 passed in SLP (Criminal) No. 5769-2022; Mohd. Muslim @ Hussain Vs. State (NCT of Delhi), 2923 AIR (Supreme Court) 1648; Shariful Islam @ Sarif Vs. The State of West Bengal, vide order dated 4.8.2022 passed in SLP (Criminal) No. 4173-2022; Md. Hasanujjaman Vs. State of West Bengal & Ors., SLP (Crl.) No. 3221 of 2023 and another judgment rendered in Rabi Prakash Vs. The State of Odisha vide order dated 13.7.2023, passed in SLP (Criminal) No. 4169-2023, to buttress his arguments. Counsel for the petitioner undertakes that the petitioner will not violate any condition of bail. Hence the petitioner deserves to be released on bail pending trial.

3. On the other hand, Learned State counsel, on instructions has submitted that a huge quantity of about 3000 intoxicant tablets of Alprazolam has been recovered from the petitioner, which is commercial in nature. The petitioner is involved in three more cases of similar nature. Therefore, the petitioner does not deserve the concession of bail pending trial.

4. In response to this, counsel for the petitioner has submitted that the petitioner is involved in three cases under the NDPS Act, out of those cases, in one case, the petitioner was

acquitted, whereas in other two cases, though the petitioner was convicted, but his sentence has been suspended during pendency of the appeal.

5. In view of the above, but without expressing any further opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial subject to his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

02.04.2024
chugh

(RAJBIR SEHRAWAT)
JUDGE

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