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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-6714-2024
Date of Decision: 12.08.2024

Kulwinder Singh @ Jondier

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Hitesh Verma, Advocate,
for the petitioner.

Mr. A.S. Pannu, AAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a second petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case bearing FIR No.51 dated 26.08.2023, under Sections 22 & 29 of the NDPS Act registered at Police Station Sehna, District Barnala.

2. The present FIR was registered against the petitioner and the other co-accused, namely, Laldeen. The translated version of the FIR as so reproduced in the petition as Annexure P-1 is reproduced as under:-

“12. First Information Contents: Copy of ruqa: To the SHO, PS Sehna, Today I ASI along with ASI Satgur Singh 486/BR, SC Gurbhajan Singh 223/BR, L/CT. Sharanjeet Kaur 912/BR, PHG Amarjit Singh 27066 on government vehicle no PB 13 BA 1832 which was being driven by PHG Baljit Singh 371/110. For patrolling & checking of suspected persons along with laptop printer kit was going



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to Kacha Rasta from Village Balloke to village Sehna, when police party reached link road from Sehna to Kothe Isser Singh Wala, then about 20 karams behind, at about 11:30 am, then from Kacha Rasta two shaven persons were seen distributing intoxicating tablets color peach from transparent polythene. Mouth of transparent polythene was open due to which tablets were clearly visible. Both of them got perplexed upon seeing police party and threw intoxicating tablets which they were holding in their hand in the same polythene, got up & tried to run away. They were apprehended with the help of fellow officials & their name address was asked. Upon which first person disclosed his name as Laldeen @ Lalli s/o Bhola Khan r/o Kamal Patti Maur, Nabha & other one disclosed his name as Kulwinder Singh Jondier s/o Jagtar Singh r/o Kamal Patti Maur, Nabha. Then I ASI, gave notice to Laldeen @ Lalli & Kulwinder Singh @ Jondier u/s 50 NDPS Act separately. They gave consent by signing on the notice. Then I ASI tried to join independent witness from persons going from there but none agreed to be witness. Then I ASI counted tablets in polythene & the same were found to be 200 loose intoxicating tablets color Peach. Then recovered 200 loose intoxicating tablets color Peach were put in the same polythene transparent & pulanda was prepared & it was sealed with my seal bearing impression JK. Sample seal was prepared separately. Seal after use was handed over to ASI Satgur Singh 486/BR. Then I ASI pulanda sealed with seal BS along with sample seal was taken into police possession vide separate memo. Memo was witnessed by witnesses. Then I ASI conducted personal search of Kuwinder Singh Jondier as per procedure. From right pocket of pant one mobile made



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Redmi color Black, touchscreen was presented before me. The same was taken to police possession vide separate memo. Memo was signed by Kulwinder Singh Jondier & witness. Accused Laldeen @lalli & kulwinder Singh @ Jondier above mentioned, have by keeping 200 intoxicating tablets color peach didn't produce any licence or permit. So Laldeen @ Lalli & Kulwinder Singh @ Jondier have by keeping 200 intoxicating tablets color peach without any licence or permit, have committed offence u/s 22/61/85 NDPS Act. So ruqa is being sent to PS for registration of case against Laldeen @ Lalli & Kulwinder Singh @ Jondier through PHG Amarjit Singh 27066. Case no. be informed after registration. Special report be issued to Illaqa Magistrate & officials. Control room Barnala be informed via W/M. I along with other officials am busy on the spot doing investigation. From the area of Kacha Rasta Link Road, Sehna & Kothe Isser Singh at 1:30 pm.-sd- Jaswinder Kumar ASI 26.08.2023. XXX”

3. Learned counsel for the petitioner submitted that the petitioner is in custody for about six months and the allegations against the petitioner and the other co-accused were pertaining to confiscation of 200 loose tablets of *Alprazolam* which they were holding in a transparent bag and were distributing the same and the police caught hold of both the petitioner and the aforesaid other co-accused. He further submitted that it was highly improbable that as to why the petitioner would have distributed the aforesaid intoxicant tablets at a public place in a transparent bag and therefore, the story of the prosecution is highly debatable.

4. Learned counsel for the petitioner also submitted that since the recovery was of loose tablets, the petitioner was granted interim bail by a Co-



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ordinate Bench of this Court on 28.02.2024 and thereafter, the petitioner has not misused the bail nor has jumped the bail and therefore, the aforesaid interim bail may be made absolute. He further submitted that the petitioner, namely, Kulwinder Singh @ Jondier is also present in Court today and he verifies the aforesaid fact that the person, who is present in Court, is Kulwinder Singh @ Jondier. He also submitted that the confiscated quantity from the petitioner and the other co-accused was only 28 grams of *Alprazolam* which does not fall in the category of commercial quantity.

5. On the other hand, Mr. A.S. Pannu, learned AAG, Punjab, on instructions from ASI Gurtej Singh, submitted that although the petitioner was granted interim bail vide order dated 28.02.2024 but after the aforesaid interim bail was granted to him, he jumped the interim bail twice and he was not present in the Court on two occasions i.e. on 03.06.2024 and 08.07.2024 and the learned trial Court had issued notice to him. He also supplied photocopies of the aforesaid orders dated 03.06.2024 and 08.07.2024. The aforesaid orders being supplied to this Court are hereby taken on record and marked as 'X' and 'Y'. The Registry is directed to tag the same at an appropriate place in the paperbook and also paginate the same.

6. Learned State Counsel further submitted that the petitioner has not only jumped the bail but he is also a habitual offender and he is involved in six more cases, out of which, four pertains to the NDPS Act and in fact in 2 cases, out of the aforesaid four cases of the NDPS Act, he was also convicted and submitted that there is an apprehension that in case the petitioner is again released on bail, then he will again jump the bail and he may also abscond or flee from justice. He also submitted that although the aforesaid quantity is not



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falling in the category of commercial quantity but considering the aforesaid facts and circumstances, the petitioner does not deserve the concession of regular bail.

7. I have heard the learned counsels for the parties.

8. The petitioner is stated to be present in the Court because he was on interim bail and has already been identified by his counsel. When on 28.02.2024, he was granted interim bail, then thereafter he absented himself from the Court twice. The photocopies of the orders which have been so supplied by the learned State Counsel in Court today and are marked 'X' and 'Y' are reproduced as under:-

“Mark ‘X’

Accused Laldeen and Kulwinder Singh not appeared in the court today. As such, notice to said accused persons be issued for 08.07.2024.

*Dated: 03.06.2024
Sachin Makkar*

*Bikramjit Singh
JSC, Barnala.
UID No.PB0224”*

“Mark ‘Y’

Fresh bail bonds against accused Laldeen furnished, which are accepted and attested.

Accused Kulwinder Singh again not appeared in the court today. As such, notice to said accused be again issued for 23.08.2024.

*Dated: 08.07.2024
Sachin Makkar*

*Bikramjit Singh
JSC, Barnala.
UID No.PB0224”*

9. It is therefore clear that the petitioner after getting interim bail did



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not appear before the learned trial Court twice and notice was issued to him. Apart from the above, as per the learned State Counsel, the petitioner is a habitual offender and is involved in six more cases and he has also been convicted in two cases under the NDPS Act. The mere fact that in the present case, the quantity involved is a non-commercial quantity would not necessarily mean that the petitioner has any right to bail considering the peculiar facts and circumstances of the case as aforesaid.

10. In view of the aforesaid facts and circumstances, the present petition is hereby dismissed. The interim bail dated 28.02.2024 granted to the petitioner is cancelled. The petitioner shall be taken into custody forthwith. The Security of the Punjab and Haryana High Court is directed to take the petitioner in custody forthwith and to hand him over to the Police Official of Police Station Sehna, District Barnala, who shall hand him over to the concerned Jail Authorities after following the due process.

11. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

12.08.2024

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

1. Whether speaking/reasoned	Yes/No
2. Whether reportable:	Yes/No