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

CRM-M-10966-2024

Date of Decision: 07.08.2024

Karnail Singh alias Kailly

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Kanwaljeet Singh, Advocate for the petitioner.

Mr. J.S. Arora, DAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting him regular bail in case FIR No.96 dated 02.05.2017, under Section 22 of NDPS Act, 1985, registered at Police Station Sidhwan Bet, District Ludhiana Rural.

2. Succinctly stated facts of the case are that the Police party while patrolling spotted one trim haired person coming from village Khursaidpura side. On suspicion, he was apprehended and was given offer under Section 50 of the NDPS Act for his search. On asking he disclosed his name to be Karnail Singh @ Kailley. On conducting search, 100 grams of intoxicant powder was recovered from him. He failed to produce any licence for possession of the same. Then on registering the FIR, he was arrested. The investigation commenced. The samples were taken from the contraband and were sent to the FSL. Thereafter, petitioner approached the learned Additional Sessions Judge, Ludhiana praying for grant of regular bail. However, on hearing both the sides, learned Additional Sessions Judge,



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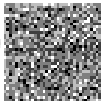
Ludhiana declined the same vide order dated 10.01.2024. Hence, petitioner is before this Court praying for grant of regular bail.

3. It has been contended by counsel for the petitioner that petitioner was falsely implicated in this case. It is submitted that as per the case of the prosecution, recovery of contraband was effected from public place, however, no independent witnesses has been joined by the Police. He further submits that offer given is also in violation of the mandatory provisions of Section 50 of the NDPS Act and thus, the prosecution of the petitioner is totally illegal. He submits that even otherwise, quantity of the contraband recovered i.e. 100 grams of Alprazolam falls under the category of non-commercial quantity, thus, provisions of Section 37 of NDPS Act are also not attracted. It is submitted that though the petitioner is falsely implicated in other cases as well, however, in some cases he is acquitted and in some cases he is on bail. He thus submits that in the facts and circumstances of the case, petitioner deserves to be granted regular bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the petitioner was arrested on the spot and 100 gram of intoxicant powder which was found to be Alprazolam, was recovered from him. He submits that search was conducted after giving due offer as per mandate of Section 50 of the NDPS Act. It is submitted that the petitioner is involved in six other cases, however, he is on bail in those cases. He submits that out of total 10 prosecution witnesses, 4 witnesses have already been examined.

5. Heard.

6. On hearing counsel for the parties and perusing the record, it is



apparent that as per the case of the prosecution, on the search of the petitioner, 100 gram of Alprazolam was recovered from him, which falls under the non-commercial quantity. In other cases, in which the petitioner is said to be involved, he is on bail. In the present case as submitted by learned State counsel out of 10 prosecution witnesses, 4 witnesses have been examined. The petitioner is behind bars since 12.09.2023.

7. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.

8. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

07.08.2024		(RAJESH BHARDWAJ)
sharmila		JUDGE
	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No