

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No. 16894 of 2024 (O&M)
Date of Decision: 15.04.2024

Sukhdev Singh @ Bholu

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Dilpreet Singh Gandhi, Advocate,
for the petitioner.

Mr. Athar Ahmad, Deputy Advocate General, Punjab

HARKESH MANUJA, J. (ORAL)

The petitioner, by way of present petition filed under Section 439 Cr.P.C., seeks grant of regular bail pending trial in case bearing FIR No. 110, dated 21.07.2018, under Sections 21 & 22 of NDPS Act, registered at Police Station Islamabad, District Amritsar, wherein he has been implicated against the alleged recovery of 1000 intoxicant tablets of *Alprazolam* alongwith 30 grams of *heroin*.

[2] Learned State counsel vehemently opposes the prayer made on behalf of the petitioner, while submitting that the petitioner was earlier involved in another case of NDPS Act, involving 180 intoxicant tablets of *Alprazolam*, though being a small quantity, he has already been granted the concession of regular bail.

[3] I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made by learned counsel

for the petitioner.

[4] In the present case, investigation stands concluded with the filing of challan, followed by framing of charges on 28.09.2023 and the petitioner is behind the bars since 11.05.2022, i.e. for the past about one year and eleven months by now. The trial has not yet commenced so far, as none of the prosecution witnesses has been examined as yet on account of non-appearance of the official witnesses. Two of the orders passed by the trial Court on 22.01.2024 & 11.03.2024 are re-produced for reference:-

“(1) Order Dated: 22.01.2024

CNR No: PBAS010003882021 CIS No: NDPS/23/2021

STATE OF PUNJAB VS Ranjit singh@ Raju etc.

*Present: Ms. Seema Sandhu Addl.PP for the State.
Accused Ranjit Singh in custody(produced)
Accused Sukhdev Singh reported to be in
custody(produced) along with counsel Sh.
Rakesh Kashyap Advocate.*

Accused Sunny Kumar PP.

Both accused produced by the jail authorities today in the Court. Witness ASI Pawan Kumar and ASI Tejinder Singh did not turn up despite being bound down Hence, said witnesses be summoned through bailable warrant of arrest in the sum of Rs.5000/- for 12.02.2024, for which date witnesses cited at Sr. no. 7 be summoned.

Date of Order: 22.01.2024

*(Sushma Devi)
Judge Special Court, Asr
UID NO . PB00245*

(2) Order Dated: 11.03.2024

CNR No: PBAS010003882021 CIS No: NDPS/23/2021

STATE OF PUNJAB VS Ranjit singh@ Raju etc.

*Present: Ms. Seema Sandhu Addl.PP for the State.
Accused Ranjit Singh in custody (not produced)
Accused Sukhdev Singh reported to be in*

custody(not produced) along with counsel Sh. Rakesh Kashyap Advocate.

Accused Sunny Kumar PP.

Both accused produced by the jail authorities today in the Court. Bailable warrants of arrest issued to witness ASI Pawan Kumar received back served but written request has been received through Naib Court on behalf of witness ASI Pawan Kumar. He is bound down through Naib court for 15.04.2024, for which date fresh bailable warrants of arrest be issued to witness Talwinder Singh. Witnesses cited at Sr. no. 7,9 and 10 be summoned. Both the accused be again produced.

Date of Order: 11.03.2024

*(Sushma Devi)
Judge Special Court, Asr
UID NO . PB00245 ”*

A perusal of the aforesaid orders shows that despite the prosecution witnesses summoned through bailable warrants, none of them has chosen to appear, thereby delaying the trial as well as contributing towards the custody of the petitioner for no valid reasons. In view thereof, this Court does not find justification to extend the incarceration of the petitioner any further.

[5] In view of the above, but without commenting upon merits of the present petition, the same is allowed. The petitioner is ordered to be released on bail subject to his furnishing adequate bail bonds / surety bonds to the satisfaction of the Trial Court/Illaq Magistrate/Duty Magistrate concerned.

[6] Also, considering the conduct of prosecution witnesses, the Investigating Officer concerned is saddled with costs of Rs. 25,000/- to be paid to the petitioner by his / her own pocket, within a period of seven days

from today, for the reasons of having delayed the trial, which was totally non-attributable to the petitioner. A copy of the receipt with regard to the deposit of costs be also forwarded to the learned State Counsel by the trial Court.

[7] It is made clear that this order may not be construed as an expression of opinion on the merits of the case.

April 15, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>