



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

251

**CRM-M-22312-2024
Date of Decision: 29.11.2024**

MOHD JAVED ALIAS JAKAR

...Petitioner

Vs.

STATE OF PUNJAB

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Parminder Singh Sekhon, Advocate
for the petitioner.

Ms. Manjot Kaur, AAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail in case FIR No.164 dated 08.11.2022 registered under Sections 22 and 29 of NDPS Act, at Police Station City-II, Malerkotla, District Malerkotla.
2. As per case of the prosecution, the alleged recovery of 12 vials having 1200 ml liquid containing Codeine, which is marginally above commercial quantity, has been recovered from the petitioner on the basis of the secret information by the police. As per the schedule of NDPS Act, Codeine is non-commercial upto 01 kg and in case the mls are converted into grams, then 1000 ml are having 932 grams. Therefore, total almost comes to 1032 grams, which is slightly above 1000 grams.



3. Learned counsel for the petitioner contends that the entire recovery of contraband is based on secret information but no independent witness has been associated by the police party. He further submits that the conscious possession of contraband cannot be entirely attributed to the petitioner. He further contends that the petitioner is not involved in any other criminal activity. The petitioner is in custody since 11.11.2022 and the final report under Section 173 Cr.P.C. has already been presented against him. Trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that he may be released on regular bail. In support of his contentions, learned counsel for the petitioner has relied upon judgments in (i) **CRM-M-37684-2021, Balwinder Singh vs. State of Punjab**, decided on 14.02.2022; (ii) **CRM-M-8212-2022, Tajinder Singh vs. State of Punjab**, decided on 03.03.2022 and (iii) **CRM-M-35186-2016, Manjit Kaur @ Jeeto vs. State of Punjab**, decided on 01.12.2016.

4. On the other hand, learned counsel for the State vehemently opposed the submissions made by learned counsel for the petitioner. However, he fairly conceded the fact that petitioner is not involved in any other criminal activity.

5. Keeping in view the facts and circumstances of the case, custody period of the petitioner and also the fact that the quantity of alleged contraband is marginally above the 'commercial quantity', but



without commenting on merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

6. Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate concerned 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 involves 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 in English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Punjab shall be at liberty to move an appropriate application in this regard.

29.11.2024

(N.S.SHEKHAWAT)

M.Sikka

JUDGE

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