

222-1

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 23727 of 2023

Date of Decision:-23.01.2024

AVTAR SINGH @ TARU

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Lalit Singla, Advocate
for the petitioner.

Mr. Sarabjit Singh Cheema, DAG Punjab.

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SANJIV BERRY, J. (ORAL)

1. The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of Regular bail to the petitioner in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
208	07.09.2022	22 of NDPS Act (29 added lateron	Samana, Patiala

2. Brief facts of the case are that FIR was registered against the petitioner and co-accused Prabhjot Singh on the basis of secret information. Petitioner and co-accused Prabhjot Singh were seen coming on a motorcycle. On seeing the police party petitioner fled away from the spot. The polythene bag containing 12 vials had fallen down along with mobile

phone, which was recovered. Samples were sent to FSL and the contents of 12 vials have been opined to be that of codeine phosphate, which comes to 1475.16 grams recovered from the polythene dropped by the petitioner. This recovery falls under the category of 'commercial quantity'. Besides that 150 tablets of CARISOMA were recovered from the conscious possession of the co-accused Prabhjot Singh.

3. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He submits that petitioner was arrested on 24.11.2022 and since then he is behind bars. Challan has already been presented in Court and out of 19 witnesses cited by the prosecution none of the witness has been examined yet. He submits that co-accused Prabhjot Singh has already been granted concession of bail by this Court vide order dated 27.03.2023 (Annexure P-4) and as such he prays for grant of concession of bail to the petitioner.

4. On the other hand learned State counsel has opposed the bail application by arguing that the petitioner was carrying 12 vials containing codeine phosphate, 1475.16 grams in quantity which falls within the purview of commercial quantity and these vials were kept in a polythene, back dropped by the petitioner while running away from the spot. He contends that considering the nature and gravity of the offence he is not entitled to concession of bail.

5. After considering the respective submissions and perusing the record, it transpires that FIR was registered on the basis of secret information that petitioner and co-accused Prabhjot Singh were coming on motorcycle and carrying narcotics, after registration of the FIR, naka was

laid and the police party noticed the petitioner along with co-accused Prabhjot Singh coming on the motorcycle, on seeing the police party the petitioner ran away dropping the polythene bag containing 12 vials along with mobile phone which was recovered from the spot. As per the FSL report the vials contained codeine phosphate, and the quantity thereof measured as 1475.16 grams which falls within the purview of commercial quantity. So far as the recovery effected from the co-accused Prabhjot Singh is concerned, for him the learned counsel for the petitioner claims parity, is totally distinguishable as from the perusal of the order dated 27.03.2023 (Annexure P-4) passed by this Court which would reveal that the recovery from Prabhjot Singh -co accused was 150 tablets of CARISOMA salt which does not fall under the NDPS Act, whereas the petitioner was allegedly carrying commercial quantity of codeine phosphate in 12 vials in a polythene bag which he dropped while running from the spot along with his mobile phone.

6. Therefore, considering the facts and circumstances of the case, I find no case is made out in favour of the petitioner at this stage, for grant of concession of bail, resultantly, the petition is hereby dismissed.

7. Anything contained here in above shall not be construed to be an expression of opinion on the merits of the case.

(SANJIV BERRY)
JUDGE

23.01.2024

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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No