



236

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

CRM-M-25044-2024 (O&M)
Date of decision : May 22, 2024

SUNNY ALIAS NANDU

...PETITIONER

Versus

STATE OF PUNJAB

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Shivender Pal, Advocate for
Mr. B.S. Bhalla, Advocate
for the petitioner.

Mr Akshay Kumar, AAG, Punjab.

KULDEEP TIWARI.J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.28 dated 24.02.2024, under Section 22, (later on added Section 25) of the Narcotic Drugs and Psychotropic Substances Act, registered at Police Station Kamboj, Amritsar Rural.

2. The relevant extract of the FIR reads as under:-

“Station House officer, P.S. Kambo Jai Hind. Today I SI alongwith CT Lovepreet Singh 1788 ASR.R, CT Millan Deep Singh 1734 ASR.R, PHG Balbir Singh 2850 were going in private vehicles in search of bad elements from P.S. to village Loharka, Nangali Naushera etc. on Majitha road and when the police party reached little ahead of Nau Shera Khurd then one clean shaven person was seen coming for Nau Shera Colonia who was carrying one polythene bag in his right hand and after seeing the police party he was about to through it when I SI with the help of team members



apprehended him and on enquiry he disclosed his name as Sunny @Nandu son of Sukhdev Singh r/o Naushera Colony and enquired about the bag in his hand who disclosed that those were intoxicant tablets. Before counting the tablets I SI told Sunny @Nandu that you have got a legal right to be searched from Gazetted Officer of the police or any magistrate who can be called at the spot. He told that I have got full confidence in you and you can conduct the search. On this consent memo was prepared and before searching I SI try to include an independent witness from the public in the police party but no body was ready for that. On this I SI check the polythene bag and found white colour without labelled tablets and on counting 600 tablets were recovered which were put in a plastic box and I prepared cloth parcel and put my seal of BS on it. The seal was later on handed over to CT Lovepreet Singh 1788. The accused sunny @Nandu by keeping the aforesaid tablets in his possession had committed an offence under Section 22/61/85 of NDPS Act and therefore ruga is being sent through PHG Balbir Singh 2850 to police station for registration of the case and number of the case be informed after registering the same and special report be issued to high officials and Illaqa Magistrate Sahib. I SI alongwith others am busy in investigation on the spot. Sd/-Balkar Singh.”

3. Upon perusal of the above FIR, it reflects that 600 intoxicant tablets were recovered from the present petitioner which later on transpired to be tramadol and as per the FSL report, the total weight of the 600 intoxicant tablets comes out to be 199 grams, which falls within the ambit of ‘non-commercial quantity’.

4. Learned counsel for the petitioner submits that nothing was recovered from the petitioner, and the alleged recovery is planted upon him, and he has been

falsely implicated in the present case. He further submits that though the petitioner is involved in one more case, but that is not under the NDPS Act.

5. On the other hand, the learned State counsel on instructions imparted to him by the official concerned submits that the challan was presented on dated 24.4.2014 but charges are yet to be framed in the present case.

6. Considering the fact that the petitioner is not involved in any other case which is of similar nature, and the recovery effected from petitioner falls within ambit of non-commercial quantity, is not a commercial quantity and he has suffered incarceration of 2 months and 23 days, as on today and the trial is yet to begin, this Court deems it fit and appropriate to grant the concession of regular bail to the petitioner. Therefore, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**. The petitioner is ordered to be released on bail on furnishing of bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

7. However, it is clarified that if in future, the petitioner is found indulging in commission of similar offences, as are involved herein, the respondent-State shall be at liberty to make an appropriate application seeking cancellation of regular bail, as granted by this Court. Moreover, anything observed here-in-above shall have no effect on the merits of the trial and is meant for deciding the present petition only.

May 22, 2024
monika

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned:-

Whether Reportable:-

Yes/No

Yes/No