



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

CRM-M-30876-2024

Date of decision : 19.09.2024

Barjesh Kumar @ Gori

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. G.S. Sandhu, Advocate for the petitioner.

Mr. J.S. Arora, D.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed by the petitioner under Section 439 Cr.P.C. praying for grant of regular bail in case FIR No.0007 dated 12.01.2024, under Sections 22 (c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Sections 22-B/61/85, 27/29 of Narcotic Drugs and Psychotropic Substances Act (added later on) and Section 21 (c) was deleted, registered at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib.

2. Status report by way of affidavit of Mr. Satnam Singh, PPS, Deputy Superintendent of Police, Sub Division Sri Muktsar Sahib has been filed on behalf of the respondent-State, in the Court today, same is taken on record.

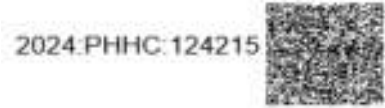
3. As per the facts of the case the police party while on patrolling spotted a clean shaven person who on seeing the police got perplexed. On suspicion, he was stopped and asked his name. On asking, he disclosed his name as Barjesh Kumar @ Gori (petitioner). The police suspected the person carrying some contraband and thus, he was given an offer for his search. He showed faith on the police party and thus, on search of his right pocket of the jacket, 600 tablets marked Alprazolam



were recovered. He failed to produce any licence for possession of the same and thus, the FIR was registered and he was arrested on spot. The samples were taken and sent to the FSL. Thereafter, the petitioner approached the Learned Judge, Special Court, Sri Muktsar Sahib for grant of bail, however, after hearing both the sides, the same was declined by the Learned Judge, Special Court vide order dated 07.05.2024. Aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

4. It has been contended by counsel for the petitioner that petitioner has been falsely implicated in the present case. He submits that as per the case of the prosecution the search was made from the pocket of the jacket of the petitioner. Thus, the provisions of Section 50 of the NDPS Act, which are mandatory in nature were not complied with as the search was made from the person of the petitioner. It is further submitted that the search was made in a public place, however, no public witness was joined by the investigating agencies. It is submitted that as per the FSL report, the contraband recovered from the petitioner was found to be weighing 60.6 grams Alprazolam which falls in the category of non-commercial quantity and thus, the provisions of Section 37 of the NDPS Act are not attracted. He submits that the petitioner is behind bars from the date of his arrest, however, there is no progress in the trial till date. He submits that though the petitioner is involved in two other cases, however, he is on bail in those cases. He submits that in the facts and circumstances of the present case, petitioner deserves to be granted regular bail.

5. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner and has submitted that the petitioner was arrested on spot and after complying with the provisions of



Section 50 of the NDPS Act, the search was made. He submits that as per FSL report, the contraband recovered was found to be Alprazolam, however, the same falls under the non-commercial quantity. He submits that out of 17 prosecution witnesses, no witness has been examined so far. As per the custody certificate the petitioner is involved in two other cases, however, he is on bail in those cases.

6. Heard. On hearing counsel for the parties and perusing the record, it is apparent the contraband was recovered from the personal search of the person. The quantity recovered from the petitioner was found to be falling under the non-commercial category to which provisions of Section 37 of the NDPS Act are not attracted. No independent witness was joined as submitted before this Court. Out of 17 prosecution witnesses, no prosecution witness has been examined till date.

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. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. 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 Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

19.09.2024

(RAJESH BHARDWAJ)
JUDGE

ps-I
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No