



CRM-M-39220-2024

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

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CRM-M-39220-2024

Date of Decision : **December 05, 2024**

RAHUL VERMA

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. A.P.S.Rehan, Advocate for the petitioner.
Ms. Manjot Kaur, AAG, Punjab.

KULDEEP TIWARI, J. (Oral)

1. Through this second petition cast under Section 439 of Cr.P.C., the petitioner prays for the grant of regular bail, in case FIR No.128 dated 24.6.2021, under Section 22 of the N.D.P.S. Act, registered at P.S. Hariana, District Hoshiarpur.

2. Succinctly stated, the recovery of 115 grams of Alprazolam from the petitioner has constituted the bedrock for registration of the present FIR.

3. The learned counsel for the petitioner opts not to address any arguments on merits of the case, rather confines the sphere of his arguments only to the period of incarceration suffered by the petitioner, besides the stage of trial. He submits that, since the trial is at its initial stage inasmuch as out of the total 11 prosecution witnesses, two have been examined, therefore, no fruitful purpose would be served by keeping the petitioner behind the bars, who has already suffered incarceration of approx. 1 year, 5 months as on today.

4. The learned State counsel although vociferously opposes the grant of regular bail to the petitioner, however, on instructions imparted to him by the official concerned, he verifies that the charges were framed on



27.7.2022 and out of the 11 prosecution witnesses, 2 have been examined so far.

5. This Court has heard the submissions made by the learned counsels for the parties concerned and perused the record.

6. The Hon'ble Supreme Court in **Rabi Prakash Vs. The State of Odisha, Special Leave to Appeal (Crl.) No(s) 4169/2023, decided on 13.7.2023** while dealing with the twin conditions for bail under Section 37 of the NDPS Act, has observed as under:

“As regard to the twin conditions contained in Section 37 of the NDPS Act, learned counsel for the respondent – State has been duly heard. Thus, the 1st condition stands complied with. So far as the 2nd condition re: formation of opinion as to whether there are reasonable grounds to believe that the petitioner is not guilty, the same may not be formed at this stage when he has already spent more than three and a half years in custody. The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.

7. Be that as it may, considering the fact that: (i) the recovered contraband falls within the ambit of “commercial quantity”; (ii) as per the custody certificate dated 4.12.2024, as placed on record today by the learned State counsel, the petitioner has suffered incarceration of 01 year, 4 months and 23 days; (ii) there is no likelihood of the trial concluding anytime soon inasmuch as only two witnesses out of 12 prosecution witnesses have been examined; (iii) Though the petitioner is stated to be involved in one more case but in that case, he was convicted and sentenced to the period already undergone by him, this Court deems it 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.

8. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

December 05, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No