

221 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42277-2023

Date of Decision: 18.03.2024

Jagjeet Singh alias Kali

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Ms. Jagdeep Kaur, Advocate and
Mr. Gurpal Singh Sandhu, Advocate, for the petitioner.

Mr. I.P.S. Sabharwal, DAG, 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.023 dated 20.05.2023 registered under Section 22 of NDPS, 1985 at Police Station Lakhewali, District Sri Muktsar Sahib.

2. As per case of the prosecution, on 20.05.2023, the petitioner was arrested by the police, while he was having conscious possession of 40 tablets of Etazip-MD-0.5 containing the salt "Etizolam" and he was found carrying the said contraband without any permit or license.

3. Learned counsel for the petitioner contends that in fact, no recovery was effected from the present petitioner and has been falsely involved. She further contends that no independent witness was joined by the police at the time of alleged recovery and no notice under Section 50 of NDPS Act was issued to him. Apart from that, the alleged recovery was marginally higher than the non-commercial quantity and the bar contained in Section 37 of the NDPS Act would not apply to the facts of the instant case.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that 40 tablets of Etazip-MD-0.5 containing salt “Etizolam” were recovered from the present petitioner. He further contends that total quantity of Etizolam salt recovered from the present petitioner is 5.8 grams, which is commercial in nature. Thus, the provisions of Section 37 of NDPS Act would apply to the facts of the instant case.

5. I have heard the learned counsel for the parties and perused the record.

6. No doubt, the petitioner is in custody since 20.05.2023, but the quantity of Etizolam recovered from the present petitioner is commercial in nature and in view of the bar contained in Section 37 of the NDPS Act, the petitioner is not entitled to concession of bail in the present case. Apart from that, four other following cases have been registered against the present petitioner.

- (i) FIR No.41 dated 11.07.2021 under Sections 22/61/85 of NDPS Act registered at Police Station Lakhewali.
- (ii) FIR No.63 dated 08.08.2019 under Sections 61/1/14 of Ex Act registered at Police Station Lakhewali.
- (iii) FIR No.73 dated 07.09.2019 under Sections 61/1/14 of Ex Act registered at Police Station Lakhewali.
- (iv) FIR No.62/2018 under Sections 341, 324, 148, 149, 506 of IPC, registered at Police Station Sadar, Sri Muktsar Sahib.

7. Apart from that, since the recovery of contraband had taken place from a bag, the compliance of Section 50 of NDPS Act was not required.

8. In view of the above, the present petition is ordered to be dismissed.

18.03.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

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