

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

249

CRM-M-42905-2024 (O&M)
Date of decision: 19.10.2024

Nirmal Singh @ Nimma **...Petitioner**

Versus

State of Punjab **...Respondent**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

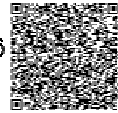
Present:- Mr. Tanvir Singh Attariwala, Advocate
for the petitioner.

Mr. Satjot Singh, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 483 of BNSS, 2023 seeking regular bail in case bearing FIR No. 29 dated 02.02.2023, registered under Sections 22 and 29 of the NDPS Act, 1985 at Police Station Baghapurana, District Moga.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 02.02.2023, on the basis of a secret information, the petitioner along with co-accused Jagtar Singh @ Tara and Kashmir Singh @ Bikka was apprehended by a police party headed by SI Jatinder Singh and recovery of 800 loose intoxicant tablets was effected from the petitioner, whereas another 800 loose intoxicant tablets were recovered from co-accused Jagtar Singh @ Tara and 400 loose intoxicant tablets were recovered from the co-accused Kashmir Singh. They were formally arrested from the spot. After completion of necessary investigation and usual formalities, challan under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner is facing trial for commission of aforesaid mentioned offences. He

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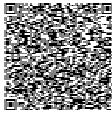
had moved an application before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 12.01.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The alleged recovery of the intoxicant tablets was, in fact, planted upon him. Learned counsel for the petitioner has further argued that even otherwise, the quantity of recovered contraband does not fall under the commercial quantity. The mandatory provisions of Section 42 of the NDPS Act were not followed. Co-accused Kashmir Singh has been granted concession of regular bail by this Court, vide order dated 22.07.2023 passed in **CRM-M-19633-2023**. Not only this, co-accused Jagtar Singh, from whose custody similar quantity of the contraband i.e. 800 intoxicant tablets were recovered, has been granted concession of regular bail by the trial Court, vide order dated 22.07.2024. Hence, it is argued that on the ground of parity, the petitioner too deserves to be granted concession of regular bail. It is further submitted that the petitioner is in custody since 02.02.2023. The conclusion of trial is likely to take time. No useful purpose would be served by keeping him in custody anymore. It is, therefore, urged that the petition deserves to be allowed.

4. *Per contra*, learned State counsel has opposed the prayer of the petitioner by arguing that he was nabbed by the police at the spot and 800 intoxicant tablets were recovered from him and that he is involved in one more case under the NDPS Act. Hence, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

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6. As per the allegations, the petitioner along with aforesaid two co-accused was apprehended by the police party and 800 intoxicant tablets were recovered from him, apart from recoveries effected from the co-accused. FSL report has been received, as per which, the salt of the recovered tablets was found to be *Alprazolam* and the total weight of the tablets comes to 96 grams, which does not fall under the commercial quantity. The petitioner is in custody since 02.02.2023. Admittedly, the aforesaid co-accused have already been granted concession of regular bail. The trial is likely to take time. Therefore, keeping in view the aforesaid facts and circumstances, this Court is of the considered opinion that no useful purpose would be served by keeping the petitioner in custody anymore. Accordingly, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned. However, it will be open for the prosecution to apply for cancellation of bail in case the petitioner is found involved in any other subsequent case.

8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

19.10.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No