

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

203

CRM-M-46120-2024 (O&M)
Date of decision: 05.11.2024

Sarabjit Singh alias Sabi

... Petitioner

Vs.

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present :- Ms. Taranjit Kaur Hundal, Advocate and
Ms. Harnaaz Kaur Hundal, Advocate for the petitioner.

Mr. Brijesh, AAG, Punjab.

SUVIR SEHGAL J. (ORAL)

1. Instant third petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, seeking grant of regular bail to the petitioner in:-

FIR No.	Dated	Police Station	Section
140	11.07.2017	Goraya, District Jalandhar Rural, Punjab	22 of the NDPS Act, 1985

2. Version of the prosecution is that the FIR, Annexure P-1, has been registered when during routine patrolling, a clean shaven youth was intercepted and on his personal search, intoxicating substance in a polythene packet was recovered from the pocket of his track pants.



3. Counsel for the petitioner submits that the petitioner has been falsely implicated. She submits that the mandatory provisions regarding search and seizure were not complied with and no independent witness was associated. She asserts that although the petitioner is involved in some other criminal cases registered against him under the NDPS Act, but the contraband allegedly recovered from him was non-commercial. She contends that as the petitioner is in custody since 14.07.2017 and there is a remote possibility of its early conclusion, petitioner deserves to be released on bail.

4. Per contra, learned State counsel, upon instructions from SI Balveer Singh, PS Goraya, District Jalandhar, has opposed the petition by submitting that 300 grams Alprazolam, which falls within the ambit of commercial quantity, has been recovered from the petitioner. He submits that the rigour of Section 37 of the NDPS Act is attracted. Counsel submits that the petitioner was granted interim bail by this Court due to non-receipt of the FSL report, but he misused the concession and was declared as a proclaimed offender. As per his instructions, petitioner was re-arrested on 15.03.2020 and is in detention since then. He has filed custody certificate, which is taken on record and submits that 5 out of 13 prosecution witnesses have been examined.

5. I have heard counsel for the parties and considered their respective submissions.

6. Although the FIR was registered in 2017, but the trial is proceeding at a slow pace. Out of 13 prosecution witnesses, State is yet

to examine more than half of the witnesses. No doubt, the petitioner was declared as a proclaimed offender, but the total length of detention by now is more than 4 years and 11 months. Following the observations made by the Supreme Court in *Union of India Versus K.A. Najeed, AIR 2021 Supreme Court 712*, this Court is of the view that the petitioner is entitled to the concession of bail.

7. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. It is clarified that nothing mentioned hereinabove shall be construed to be an expression of opinion on the merits of the case.

05.11.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No