

236 IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM M-54442-2023 (O&M)
Date of Decision: 24.01.2024

Surinder KumarPetitioner
Versus
State of PunjabRespondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Sahil Puri, Advocate,
for the petitioner.

Mr. Joginder Pal Ratra, Sr. DAG, Punjab.

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short “Cr.P.C”) seeking bail pending trial in FIR No. 39 dated 25.08.2022 registered under Sections 22 & 29 of Narcotic Drugs & Psychotropic Substances Act, 1985 at Police Station, Rawalpindi, Phagwara, District Kapurthala.

2. Case of the prosecution is that on 25.08.2022, Sub-Inspector Tarlochan Singh, Police Station Rawalpindi Phagwara along with his team held a barricade at GNA University, Bhogpur for checking suspected and anti-social persons. He received a secret information that Gobinda @ Rahul & Sumit Sapra @ Kaka are habitual drug addicts and they used to sell drugs/intoxicant substances. They are going to village Jagpalpur for supplying contraband tablets. In pursuance to the secret information, the police team reached at T-Point, Bhogpur-Palahi road and started checking suspects. After some time, two persons, who disclosed their names as Sumit Sapra @ Kaka & Gobinda @ Rahul and both were apprehended. On personal search of Sumit Sapra @ Kaka and Gobinda @ Rahul, 800 & 900 loose tablets, respectively were recovered.

The accused were taken into police custody. A *ruqa* (intimation) was sent to Police Station; whereupon, FIR in question was registered. During investigation, above accused made disclosure that they purchased the contraband from present petitioner Surinder Kumar. Thereafter, during investigation, on 26.08.2023, recovery of 2200 loose intoxicant tablets was effected from the present petitioner and he was arrested. Offence under Section 29 of the Act was added vide DDR No. 14 dated 26.08.2022 in the above FIR.

3. Learned counsel for petitioner contends that he has been falsely implicated in the present case on the basis of disclosure made by co-accused. He also contends that at the time of alleged recovery, neither any gazetted Officer; nor Magistrate was called on the spot by the Seizing Officer. Further contends that recovery memo prepared by the Investigating Officer already contained the FIR number; thus, false implication of the petitioner cannot be ruled out.

4. *Per contra*, learned State counsel opposed the bail while submitting that during investigation, contraband (commercial quantity) i.e. 1200 tablets of Alprazolam weighing 152.4 grams and 1000 tablets of Tramadol weighing 197 grams were recovered from the petitioner; thus, in view of Section 37 of the Act, he does not deserve the concession of bail.

5. Heard learned counsel for the parties and perused the paper-book.

6. Concededly, petitioner has been charged by learned Special Court under Section 29 of the Act and trial is going on. As per prosecution case, during investigation, commercial quantity of contraband was recovered from the petitioner; thus, the argument raised by learned counsel for the petitioner, at best, would be the plea of defence during trial at appropriate stage.

7.

Above all, the alleged recovery is commercial in nature; hence this Court is not inclined to record its satisfaction favourable to the petitioner in terms of Section 37 of the Act for granting bail pending trial.
8.

In view of the above, there is no option, except to dismiss the petition, at this stage.
9.

Ordered accordingly.
10.

Pending application(s), if any, shall also stand disposed off.

24.01.2024
SN

(MAHABIR SINGH SINDHU)
JUDGE

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