

CRM-M-55482-2023 (O & M)
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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-55482-2023 (O & M)
Date of Decision: 26.02.2024

Kulwinder Singh @ Khola @ Ghola Petitioner

V/s

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Kshitiz Goel, Advocate,
for the petitioner.

Mr. Deepinder Singh Brar, Sr. DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in this second petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.37 dated 11.03.2023 under Section 21 of the NDPS Act (Section 22 of the NDPS Act added later on) registered at Police Station Banur, District Patiala.

2. The brief facts of the case are that the petitioner-Kulwinder Singh @ Khola @ Ghola came to be arrested and when he was found in 50 grams of intoxicant powder containing the salt Diphenoxylate Hydrochloride.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. There was a violation of the mandatory provisions of the NDPS Act including Sections 42, 50 and 52-A. In fact, as per the FSL report, the quantity of contraband recovered was 50 grams which is less than the commercial quantity being more than 50 grams. As the petitioner was in custody since 11.03.2023 and only 03 out of the 10 prosecution witnesses had been examined so far, he

was entitled to the concession of bail.

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4. The learned counsel for the State, on the other hand, contends that as per the prosecution case, the petitioner was apprehended with 50 grams of intoxicant powder. He submits that the offences of this kind were on the rise. Therefore, he was not entitled to the concession of bail. He, however, concedes that the petitioner was in custody since 11.03.2023, only 03 out of the 10 prosecution witnesses had been examined so far and the recovery was of non-commercial quantity of contraband.
5. I have heard the learned counsel for the parties.
6. Admittedly, the recovery from the petitioner is of non-commercial quantity of contraband, the commercial quantity being more than 50 grams. Therefore, the bar contained under Section 37 of the NDPS Act would not be applicable to the case of the petitioner. Further, the petitioner is stated to be in custody since 11.03.2023 and only 03 out of the 10 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is not required.
7. Thus, without commenting on the merits of the case, the present petition is allowed and the petitioner-Kulwinder Singh @ Khola @ Ghola is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of the CJM/Duty Magistrate concerned.
8. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

February 26, 2024
sukhpreet

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