

227

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-57914-2023

Date of Decision: 23.01.2024

Bittu Singh @ Sukha

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Mr. Prateek Pandit, Advocate
for the petitioner.

Mr.M.S.Bajwa, Deputy Advocate General, Punjab.

N.S.Shekhawat J. (Oral)

1. In compliance of order dated 22.11.2023, status report by way of an affidavit of Deputy Superintendent of Police, Dharamkot, District Moga has been filed on behalf of the respondent-State in Court today and the same is taken on record.
2. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.116 dated 08.08.2022 registered under Sections 22, 25, 29 of NDPS Act, 1985 at Police Station Kot Ise Khan, District Moga.
3. As per case of the prosecution, on receipt of secret information, a police party headed by ASI Jagsir Singh had arrested Nishan Singh @ Shana and was found carrying 230 Mouth Dissolving tablets containing Etizolam salt, weighing 23.76 grams, without any permit or licence. The said quantity falls within the ambit of "commercial quantity". After following the due process of law, Nishan Singh @ Shana was ordered to be arrested by the police.

4. Learned counsel for the petitioner contends that the petitioner was not named in the FIR nor there is any evidence against him, which may connect him with the commission of crime in any manner. Learned counsel further contends that the petitioner had no concern with the recovery effected from his co-accused, namely, Nishan Singh @ Shana and was wrongly arrested by the police on 10.11.2022. He further contends that as per the case of the prosecution, the motorcycle, owned by the petitioner, was used by Nishan Singh @ Shana and no recovery was effected from him.

5. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner. He further submits that 4 more cases under NDPS Act have been registered against him.

6. In reply, learned counsel for the petitioner submits that the petitioner is on bail in all other cases.

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

8. The petitioner was arrested in the present case on 10.11.2022 and is in custody for the last more than 01 year and 02 months. Even otherwise, the petitioner is on bail in all other cases.

9. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned subject to the following conditions:-

(i) *The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with*

- the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.*
- (ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*
 - (iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
 - (iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
 - (v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*
 - (vi) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.*
 - (vii) The concerned Court may insist on two heavy local surties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.*
 - (viii) The petitioner shall report every 1st Monday of English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Punjab shall be at liberty to move an appropriate application in this regard.*

23.01.2024
hemlata

(N.S.SHEKHAWAT)
JUDGE

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