



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-9681-2024
Decided on : 06.02.2025

Harjinder Singh @ Kala . . . Petitioner(s)
Versus
State of Punjab . . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Ms. Amrinder Kaur, Advocate
for the petitioner(s).

Mr. Amandeep Singh, DAG, Punjab.

SANJAY VASHISTH, J. (Oral)

1. The instant petition has been filed under Section 483 of BNSS, 2023 (earlier Section 439 Cr.P.C.), for grant of regular bail to the petitioner, during the pendency of trial, who has been booked in a criminal case arising out of First Information Report, as detailed hereunder:-

Name of Petitioner(s)	FIR No.	Date	Section(s)	Police Station	District
Harjinder Singh @ Kala	108	30.08.2023	22(c), 27 of NDPS Act, 1985	Gidderbaha	Sri Muktsar Sahib

2. Recovery in the present case is of total 40 intoxicating tables (four strips containing 10 tables each, make ‘Etizolam’ mouth dissolving tablet – etazip-MD-0.5, batch number of which was removed by applying polish, MGF 11/2022 EXP 10/2024). It is contended by learned counsel for the petitioner that non-commercial quantity is more than 2.5 grams, and if same is calculated from the 40 tablets recovered from the petitioner, it will come to 5 gram – 920 mg., which is little more than double the prescribed non-commercial quantity (maximum of the non-commercial quantity i.e. 2.5 grams).



She further contends that the charges were framed on 06.01.2024, but till date, despite lapse of more than a period of one year, out of the total 20 prosecution witnesses, not a single witnesses has been examined. Further submits that petitioner was apprehended on the spot on 30.08.2023 and since then he is inside jail.

Further submits that petitioner cannot be kept behind bars for indefinite period and he cannot be subjected to face the consequences because of the lapses on the part of the prosecution agency. Thus, learned counsel prays for grant of concession of regular bail to the petitioner.

3. On advance notice and in response to the arguments addressed by counsel for the petitioner, learned State counsel, produces the custody certificate dated 04.02.2025, in Court today, which is taken on record. Office to tag the same at appropriate place. A copy thereof has been handed over to the counsel for the petitioner.

As per the custody certificate, in the present case, petitioner has already undergone 01 year, 05 months and 02 days days period inside jail and he is accused in one more case, under which, petitioner has already been granted the bail. However, there is no denial that till date, petitioner has not been convicted in any other similar case under the NDPS Act.

4. After hearing the learned counsel for the parties and perusing the relevant material on record with their able assistance, this Court finds substance in the submissions made by the learned counsel for the petitioner. It is observed that despite the petitioner having been in jail for more than 1 year and 5 months, no prosecution witness has been examined so far, even though charges were framed over a year ago. In the absence of any substantial reason to curtail liberty of the petitioner, I do not find any justification for continued



incarceration.

5. Accordingly, in view of the totality of circumstances, and the facts viz-a-viz allegations leveled against the petitioner, and the factors noted here-in-above, I deem it appropriate to grant the concession of bail to the petitioner.

6. Consequently, prayer made in the present petition is **allowed**. Petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of the learned trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

7. Needless to observe that the petitioner shall not extend any threat and shall not influence any prosecution witness in any manner directly or indirectly.

8. The observation made here-in-above shall not be construed as an expression of opinion on the facts of the case and the Trial Court is expected to decide the case on the basis of complete evidence available on record.

9. It is further made clear that if, in future, petitioner is directly found indulged in similar kind of activities, this order shall be deemed to be cancelled.

10. Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

February 06, 2025

J.Ram

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