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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-23836-2024
Date of decision:-04.02.2025

TEHAL SINGH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Pawan Attri, Advocate for the petitioner.

Mr.Ankit Grewal, DAG, Punjab.

SANJIV BERRY, J.(ORAL)

Learned State counsel has filed additional affidavit dated 07.01.2025 of Superintendent of Police, Sub Division Rural, District Patiala, the same is taken on record.

2. The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure, for grant of regular bail in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
90	01.09.2023	22 and 29 of NDPS Act	Julkan, District Patiala

3. Arguments heard.

4. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He contends that petitioner is in custody since 01.09.2023 and after completion of investigation, challan has already been presented in Court where none of



the witness has been examined by the prosecution till date. He contends that the alleged recovery of contraband from the petitioner does not fall within the purview of commercial quantity, hence prayed for grant of bail to the petitioner.

5. *On the other hand*, learned State counsel referring to the reply submitted by the State, has opposed the bail petition by arguing that petitioner has been found keeping in his possession contraband when apprehended by the police, as such, considering the gravity of offence, prayed for dismissal of the bail petition.

6. After considering the rival contentions and perusing the record, it transpires that as per the case of the prosecution the petitioner was found keeping in his possession 880 tablets of Alprazolam while co-accused was found keeping in his possession 320 intoxicant tables of Alprazolam when apprehended by the police on 01.09.2023. It is evident from the additional affidavit of Superintendent of Police that the recovery of 880 tablets from the petitioner tantamount to 88.88 gram of Alprazolam as per the FSL report which is “non commercial in nature”. Admittedly, challan already stands presented in the trial Court wherein prosecution has cited 11 witnesses and till date none of them have been examined. In this way, the conclusion of trial to ascertain criminal liability, if any, of the petitioner in the present case will take sufficient long time.

7. Considering the fact that the recovery from the petitioner does not fall within the purview of Section 37 of the NDPS Act, without commenting on the merits of the case, it is observed that no purpose would



be served by keeping petitioner behind bars. Therefore, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

8. It is further made clear that in case the petitioner is found involved in any case under NDPS Act, after his release on bail, it will be open for the prosecution to move an application for cancellation of his bail in accordance with law.

9. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

10. Pending application(s) if any shall also stand disposed of.

(SANJIV BERRY)
JUDGE

04.02.2025
Gyan

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |