



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

288

CRM-M-29274-2024
Decided on : 06.03.2025

Makhan Singh . . . Petitioner(s)
Versus
State of Punjab . . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Ashok Kumar Khunger, Advocate
for the petitioner(s).

Mr. Mohit Kapoor, Sr. 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
Makhan Singh	0033	26.03.2024	22(b) of NDPS Act, 1985	Khuian Sarwar	Fazilka

2. Counsel for the petitioner contends that;
- (i) As per the case of prosecution, 20 tablets of Etazip-MD-0.5 (Etizolam Mouth Dissolving tablets) have been recovered, which is weighing 2.86 grams.
 - (ii) The maximum ‘non-commercial’ quantity prescribed is 2.50 grams. Thus, the recovery of intoxicant tablets, is little more than the maximum of ‘non-commercial’ quantity.
 - (iii) Petitioner is inside jail for the last 11 months and 06 days i.e. from the day of his arrest on 26.03.2024.



- (iv) After completion of investigation, final report has been submitted and charges have also been framed on 27.09.2024. However, despite passing of more than five months, statement of only one prosecution witnesses has been recorded so far.
- (v) Petitioner is not involved in any other similar activity.
- (vi) Petitioner also undertakes that in the eventuality of granting of regular bail, said concession shall not be misused by him in any manner.

Thus, learned counsel prays for grant of concession of regular bail to the petitioner.

3. *Per contra*, learned State counsel while opposing the prayer of bail, submits that the contraband recovered from the petitioner falls within the ambit of 'commercial' quantity, and therefore, argument addressed by petitioner's counsel is misconceived.

However, learned State counsel is unable to controvert any of the factual submissions regarding the case or the status of the proceedings, as stated and recorded here-above.

4. Considering the factors that the petitioner is inside jail for the last 11 months and 06 days, is not involved in any other case of similar nature, and only one prosecution witness has been examined till date, as well as the fact that the recovery of contraband, i.e., Etizolam Mouth Dissolving tablets weighing 2.86 grams, is slightly more than the maximum limit of 'non-commercial' quantity, this Court deems it appropriate to consider the plea of bail of the petitioner.

5. 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.

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

7. 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.

8. 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.

9. Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

March 06, 2025
J.Ram

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