

CRM-M-34314-2024

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

214

CRM-M-34314-2024

Decided on: 05.03.2025

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.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. S.P. Singh, Advocate for the petitioner.

Mr. Amandeep Singh, DAG, Punjab.

SANJAY VASHISTH, J.

1. The instant petition has been filed under Section 439 of Cr.P.C., for grant of regular bail to the petitioner, who has been booked for having committed the offences punishable under Sections 21 and 22 of NDPS Act, in FIR No.78, dated 10.12.2023, registered at Police Station Fatehgarh Panjtoor, District Moga, during the pendency of trial.

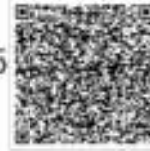
2. Learned counsel for the petitioner contends that allegations mentioned in the FIR are imaginary only, because the police party is shown to be there in the village of petitioner in a private vehicle, registration number of which is not disclosed. It is alleged that on seeing the private car, petitioner started walking swiftly and threw the envelopes by taking them out from his pocket. After apprehending the petitioner, he disclosed that two different envelopes contained 'heroin' and intoxicant. Thus, merely, on seeing the private vehicle it is not possible that any person possessing such a contraband, would behave in the manner it is alleged in FIR.

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3. Counsel further submits that recovery from the petitioner is subsequently shown to be 30 tablets containing Etizolam salt and after completion of investigation, the final report has already been submitted, but till date only three prosecution witnesses have been examined out of total 15 prosecution witnesses. Counsel also submits that though there is another case registered against the petitioner under the provisions of NDPS Act that is regarding recovery of 5 gms of Heroin, which infact is the small quantity and there is no conviction recorded against the petitioner. Counsel also submits that if the petitioner is released on bail, he will never misuse the concession of bail by indulging himself again in similar activity. Counsel submits that petitioner is in custody since 10.12.2023 and culmination of trial is likely to take considerable time, thus, prays for grant of regular bail.

4. On the other hand, learned State counsel has filed the custody certificate of the petitioner in the Court today. Same is taken on record. Registry is directed to tag the same at appropriate place with the paper-book.

Learned State counsel while opposing the prayer of the petitioner submits that as per FSL report, intoxicant powder containing Tramadol Hydrochloride salt was found to be there in one envelope and in second envelope, 30 tablets of Etizolam were found. He submits that infact, the tablet Etizolam falls under the commercial quantity having its weight 5.58 grams, which is more than the maximum of non-commercial quantity i.e. 2.5 grams.

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5. I have heard learned counsel for the parties and considered the submissions addressed by them. This Court noticed the fact that in other case, in which petitioner is accused under NDPS Act, there is recovery of 5 gms of Heroin and petitioner is stated to be on bail in said case, moreover, final decision in said case is yet to come and in present case out of total 15 prosecution witnesses, only three have been examined till date; petitioner is inside jail for the last one year and ten months and cannot be kept behind bars for indefinite period, this Court deems it appropriate to consider the plea of the petitioner.

6. Petitioner is ordered to be released on bail in this case, 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. The observation made here-in-above shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of 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 05, 2025
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Whether Speaking/Reasoned: **YES/NO**
Whether Reportable: **YES/NO**