



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

CRM-M-62459-2024

Date of decision: 10.02.2025

Ishwinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. TPS Makkar, Advocate for the petitioner.

Mr. Inderjeet Singh Ladher, DAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. This is third petition filed under Section 483 of BNSS 2023 seeking grant of regular bail to the petitioner in case having FIR No. 0143 dated 22.09.2023, under Section 22(c), 61, 85 of NDPS Act, registered at police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib.

2. The allegations in nutshell are that police recovered 40 tablets of Etizolam 0.50 mg each on 22.09.2023 from a motor cycle driven by co-accused Sahib Singh @ Sahba while present petitioner was sitting on the pillion seat. On checking of the motor cycle, the aforesaid medical intoxicants contained in a polythene bag were recovered from near the speedometer of the motor cycle. Both of them were arrest at the spot.

3. The counsel appearing on behalf of the petitioner *inter alia* submits that the petitioner is falsely implicated in the present case and is incarcerated for last more than 1 year and 4 months and is not involved in any other case under NDPS Act. It is further submitted that no contraband was recovered from the conscious possession of the petitioner who was sitting at the back while the alleged recovery is effected from the front portion of the motor cycle. It will take time for the trial to conclude. So, prayer is made that the petitioner be released on regular bail, pending trial. In support of his contentions, the counsel for the petitioner has referred to order passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No.9510/2024 titled ***Ram Lal Vs. The State of Rajasthan***, dated 17.09.2024



wherein recovery of commercial quantity of smack was recovered from the petitioner therein and he was granted regular bail on the ground that he had already undergone about 1 year and 6 months of custody and was having no criminal antecedents.

4. The present petition is resisted by the State counsel who submits that petitioner was sitting on the pillion seat of a motor cycle driven by co-accused Sahib Singh and on search, 40 tablets of Etizolam contained in a polythene bag were recovered from near the speedometer of said motor cycle. The said medical intoxicants comes under commercial quantity and thus, the present case is covered by rigors of Section 37 NDPS Act. However, the State counsel has not disputed the fact that petitioner is in custody for the last about 1 year and 4 months and is having no criminal antecedents under NDPS Act and that till date, no witness is examined on behalf of the prosecution out of total 20 witnesses.

5. It is apparent that the recovery of commercial quantity of contraband is stated to be recovered from the front portion of motor cycle which was driven by co-accused Sahib Singh while the present petitioner was sitting on its pillion seat. The counsel for the petitioner has raised moot point that the said recovery cannot be said to be effected from conscious possession of the petitioner.

6. Admittedly, the petitioner is incarcerated for the last 1 year and 4 months and is not involved in any other criminal case under NDPS Act and it will take time for the trial to terminate. The delay in trial is not attributed to the present petitioner in any manner.

6. In the given circumstances, no gainful purpose is going to be served by keeping the petitioner in custody for any longer period.

7. In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

10.02.2025

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No