

2025.PHHC.010313



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

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CRM-M-2645-2025 (O&M)

Date of decision: 24.01.2025

Sarwan Singh**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Madan Sandhu, Advocate
for the petitioner.

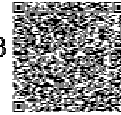
Ms. Swati Batra, DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of regular bail to the petitioner in FIR No. 177 dated 05.08.2019, registered under Section 22 of the NDPS Act, 1985 at Police Station Sultanpur Lodhi, District Kapurthala.

2. Brief facts of the case relevant for the disposal of the present petition are that on 05.08.2019, the petitioner was apprehended by a police party headed by ASI Gurdev Singh and recovery of 255 grams of intoxicant power i.e. *Alprazolam* was effected from him. He was formally arrested at the spot. He was granted concession of interim bail awaiting the FSL report, vide order dated 07.11.2019, passed by the learned Judge, Special Court, Kapurthala. However, after receipt of the FSL report, which affirmed the weight of the intoxicant powder as 255 grams containing salt of *Alprazolam*, the interim bail granted to the petitioner was cancelled but he did not surrender. PO proceedings were initiated against him and ultimately, he was

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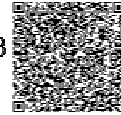


declared a proclaimed offender, vide order dated 28.09.2022 and was arrested on 07.10.2022 and since then he is in custody.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. He was not present at the spot disclosed in the FIR and no recovery of contraband was effected from him. Rather, the contraband allegedly recovered from the petitioner was planted upon him. There is nothing on record to connect the petitioner with the subject crime. No independent witness was joined by the police party. The petitioner is in judicial custody since 07.10.2022. The trial is likely to take time. No useful purpose would be served by keeping him in custody anymore. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be granted benefit of regular bail.

4. *Per contra*, learned State counsel, on the basis of the custody certificate, has vehemently argued that the petitioner is not entitled to get benefit of bail as a commercial quantity of the contraband was recovered from him. He was nabbed at the spot. His story regarding false implication and plantation of the recovered contraband is concocted one. FSL report has been received, as per which, *Alprazolam* salt has been found in the recovered intoxicant powder and the total weight of the powder was found to be 255 grams, which falls under commercial quantity. It is further argued that since the recovery of the contraband effected from the petitioner falls under the commercial quantity and he is involved in one more case under the NDPS Act, the rigors of Section 37 of the NDPS Act would be attracted against him and he is not entitled to get benefit of bail. He is involved in one more case under the NDPS Act. Even otherwise, the petitioner has misused the

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concession of interim bail earlier granted to him and had absconded for a period of about two years. He was ultimately declared as a proclaimed offender and was re-arrested on 07.10.2022. The trial is going on at a proper pace. If released on bail, the petitioner may again abscond or indulge in similar offences. Hence, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also perused the material placed on record.

6. As per the allegations, the petitioner was apprehended by the police party and the recovery of 255 grams of intoxicant powder containing *Alprazolam* salt was effected from him. As per FSL report, the total weight of the recovered contraband falls within the ambit of commercial quantity. A perusal of the custody certificate of the petitioner reveals that he is involved in one more case under the NDPS Act. The apprehension of learned State counsel that if extended benefit of bail, the petitioner may again abscond or indulge in similar offences cannot be stated to be unfounded keeping in view his criminal antecedents and past conduct. The rigors of Section 37 of the NDPS Act would also be attracted against the petitioner as a commercial quantity of the contraband was recovered from him. There is nothing on record to suggest that there would be any undue delay in conclusion of trial. The arguments raised by learned counsel for the petitioner with regard to lacunas in investigation cannot be looked into at this stage as the same is to be decided by the trial Court after appreciating the entire evidence and material placed on record before it. Therefore, keeping in view the gravity of allegations as levelled against the petitioner, his criminal antecedents as well as his past conduct of misusing the interim bail, the quantity of alleged

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contraband recovered from him, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that he does not deserve to be granted concession of regular bail, at this stage. Accordingly, the present petition is dismissed.

7. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

24.01.2025*Wasem Ansari***(MANISHA BATRA)
JUDGE***Whether speaking/reasoned
Whether reportable**Yes/No
Yes/No*