



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

CRM-M No.61312 of 2024

Date of Decision: 09.04.2025

Bashir Ahmed

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. J. S. Arora, DAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

1. Present petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.227, dated 17.09.2023, under Section 22 of NDPS Act, 1985 and Section 42 of Prisons Act, registered at Police Station Kotwali, Kapurthala, District Kapurthala..

2. Succinctly the facts of the case are that the petitioner in the present case was already undergoing the sentence in Central Jail, Kapurthala in FIR No.98, dated 07.09.2018, under Section 20 of NDPS Act, Police Station Sujampur, District Pathankot. Thereafter, he was released on parole and after availing the parole of 56 days, he surrendered before the Jail authorities on 17.09.2023 at about 10:15 A.M. At the time of entering the Jail, his search was conducted. On conducting the search from his bag, one black coloured polythene bag containing Tobacco was recovered and in the said bag, intoxicant tablets wrapped in



polythene having white colour were also recovered. On counting the intoxicant tablets, the same were found to be 750 intoxicant tablets. As the petitioner was carrying the prohibited intoxicant tablets without any authority, the FIR was registered and he was arrested in this case. On registration of the FIR, investigation commenced. On receiving the FSL report, the contraband recovered was found to be weighing 115.5 grams of Alprazolam. On conducting the investigation, the challan was presented and on framing the charges, the trial commenced. The petitioner approached the Court of learned Judge, Special Court, Kapurthala praying for the grant of bail. However, after hearing both the sides finding no merit in the same, the learned Judge, Special Court, Kapurthala declined the petition filed by the petitioner vide his order dated 09.08.2024. Hence being aggrieved the petitioner is before this Court by way of filing the present petition praying for the grant of regular bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner had fallen victim to the act of the Jail authorities. He has submitted that admittedly the petitioner was released on parole and the alleged recovery was made from him while he was re-entering the Jail after completion of his parole period. He has submitted that the story made against the petitioner that at the time of entering the Jail, he was carrying the contraband in a bag is totally unbelievable. He has submitted that during the complete period of parole, which was granted to the petitioner, he had committed no offence and thus, had not misused the concession of bail. He has thus submitted that the case is purely planted



upon the petitioner only in order to prolong the incarceration of petitioner in the Jail. He has submitted that admittedly the petitioner is behind bars in the present case since 17.09.2023, but as he is already undergoing the sentence in FIR No.98, dated 07.09.2018, hence, his custody in the present case has not commenced and the same is shown to be Nil. However in the present case, the petitioner has completed more than 1½ years. He has submitted that even otherwise the prosecution till date has not been able to conclude the trial. He has thus submitted that in the facts and circumstances, the petitioner deserves to be granted bail.

4. Status report dated 07.04.2025 by way of an affidavit of Deep Karan Singh, Deputy Superintendent of Police, Sub Division, Kapurthala, Punjab on behalf of the respondent-State along with custody certificate of the petitioner has been filed by learned State counsel today in the Court and the same is taken on record. Copy thereof has been supplied to learned counsel for the petitioner.

5. *Per contra*, learned counsel for the State has opposed the submissions made by counsel for the petitioner. He, on instructions from ASI Jasvir Singh, has submitted that the petitioner is a habitual offender. He has submitted that the petitioner was already undergoing the sentence of 20 years RI as awarded by the learned Judge, Special Court, Pathankot. He has submitted that the petitioner during the parole has committed this offence. He, on instructions, has submitted that out of 12 prosecution witnesses, only one witness has been examined so far.

6. Heard.

7. After hearing learned counsel for the parties and perusing



the record, it is apparent that the petitioner in the present case was arrested on 17.09.2023. As he has already undergoing the sentence in another case, hence in the present case as per the custody certificate, his sentence is Nil. Whereas in the case pertaining to FIR No.98, dated 07.09.2018, he has undergone the actual sentence of 06 years, 05 months and 02 days as on 09.04.2025. The prosecution could examine hardly one witness out of 12 till date. Even if the custody certificate of the petitioner shows his custody to be Nil.

8. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court.

9. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, the Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for the grant of bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case. However, if the petitioner does not furnish the bail bonds within seven days from today, then his further custody period after one week will not be counted in this case.

09.04.2025

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**(RAJESH BHARDWAJ)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No