

CRM-M-50716-2024

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

(300)

**CRM-M-50716-2024 (O & M)
Date of Decision:-27.02.2025**

Gurprabh Singh @ Prince

.....Petitioner.

Vs.

State of Punjab

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Nikhil Ghai, Advocate,
and Ms. Malini Singh, Advocate,
for the petitioner.

Mr. Rajinder Singh Bhatta, DAG, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in this petition under Section 483 BNSS (The Bharatiya Nagarik Suraksha Sanhita, 2023), is for the grant of regular bail in case FIR No.0100 dated 13.09.2023 under Sections 21/22/29/61/85 of the NDPS Act registered at Police Station Haryana, District Hoshiarpur.

2. The brief facts of the case are that Gurprabh Singh @ Prince (petitioner) came to be apprehended with 261 grams of narcotic substance, subsequently, found to contain the sale 'Tramadol Hydrochloride'.

During the course of investigation, he disclosed that his brother-Jaskaran Singh @ Jass (since granted the concession of bail vide order dated 02.11.2023 passed by the Judge, Special Court, Hoshiarpur, Annexure P-2) had provided him the intoxicant substance for further sale.

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3. The learned counsel for the petitioner contends that there is a violation of the mandatory provisions of the Act regarding the search and seizure. No independent witness of recovery was joined during the course of the recovery proceedings. Since the recovery of 261 grams of Tramadol Hydrochloride was marginally above the commercial quantity of 250 grams, the petitioner was a first-time offender, in custody since 13.09.2023 and none of the 13 prosecution witnesses had been examined so far, he was entitled to the grant of bail, moreso, when a co-accused, namely, Jaskaran Singh @ Jass had been granted the similar concession.

4. The learned counsel for the State, on the other hand, contends that the offences of this kind are on the rise and commercial quantity of contraband has been recovered from the accused because of which Section 37 of the Act would be a bar to the grant of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 13.09.2023 and none of the 13 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.

6. In the cases of '*Sukhchain Singh @ Manga Versus State of Punjab, CRM-M-7857-2022 decided on 04.04.2022, Pardeep Singh versus State of Punjab, CRM-M-46244-2022 decided on 19.01.2023, Hari Yadav @ Haiya versus State of Punjab (CRM-M-37645-2021)*' decided on 11.11.2022, '*Jang Kanwar Versus State of Punjab (CRM-M-53415-2021)*' decided on 19.01.2022, '*Shankar Prashad Chanau Versus The State of Punjab, CRM-M-24090-2020, decided on 27.08.2020, Gurpreet Kumar Versus State of Punjab, CRM-M-17021-2021, decided on 31.08.2021, Salim Versus State of Haryana, CRM-M-42436-2020, decided on*

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24.02.2021, Gagandeep Versus State of Punjab, CRM-M-3055-2021, decided on 27.01.2021, Gurpreet Singh @ Gopi Versus State of Punjab, CRM-M-41039-2019, decided on 26.02.2020, Dalbara Singh Versus State of Punjab, CRM-M-47880-2022 decided on 16.01.2023', and Vivek Watts versus State of Punjab, CRM-M-13791-2022 decided on 15.02.2023, where the recovery from the accused was marginally above the commercial quantity for the respective contraband in each case, the Court granted bail to the accused therein.

7. In the present case, the alleged recovery from the petitioner is of 261 grams of a narcotic substance containing the sale of 'Tramadol Hydrochloride' which is marginally above the commercial quantity of 250 grams. The petitioner is a first time offender with no other case under the NDPS Act registered against him. In this situation, the provisions of Section 37 of the NDPS Act can be relaxed to an extent and the case of the petitioner can be considered for the grant of bail, moreso, when he is in custody since 13.09.2023 but none of the 13 prosecution witnesses have been examined so far and a co-accused has already been granted the similar relief.

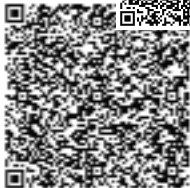
8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Gurprabh Singh @ Prince is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any other case except the present one.



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10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.
11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

February 27, 2025
sukhpreet

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