

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous Bail Application No. 13810/2023

Harish Darji S/o Shankarlal Darji

-----Petitioner

Versus

State Of Rajasthan

-----Respondent

For Petitioner(s)	:	Mr. Shailendra Singh
For Respondent(s)	:	Mr. G.S Rathore, GA-cum-AAG Mr. Suresh Kumar, PP

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN
Order

11/12/2023

1. The petitioner has preferred this bail application under Section 439 Cr.P.C who has been arrested in connection with FIR No.26/2023 registered at Police Station G.R.P, Kota District Kota for the offence punishable under Section 8/22 of NDPS Act.
2. Learned counsel for the petitioner submits that according to the prosecution case, petitioner was found in possession of 1.30kg (gross-weight) of Alprazolam on 30.01.2023. He submits that charge-sheet was filed on 29.04.2023 but FSL report was not annexed with the same. He submits that in absence of the FSL report, it cannot be concluded that petitioner was found in possession of commercial quantity of alprazolam powder.
3. In these circumstances an application was filed by the petitioner under section 439 Cr.P.C read with section 167(2) of Cr.P.C in absence of FSL report. Charge-sheet cannot be completed under Section 173(2) of Cr.P.C. But said application was rejected by the learned trial Court. Counsel relied upon the order passed by the Hon'ble Supreme Court in the case of ***Divyas***

Bardewa vs. Narcotics Control Bureau in SLP (Crl) No(s). 11628/2022 dated 01.05.2023, wherein, Hon'ble Apex Court considered the issue involved in this bail application and observed that the said issue is pending consideration in a bunch of petitions. It would take sometime for hearing and granted bail to the accused person, languishing in jail.

4. Having regard to the totality of the facts and circumstances of the case and the observation made by the Hon'ble Apex Court in the case of **Divyas Bardewa vs. Narcotics Control Bureau** in SLP (Crl) No(s). 11628/2022 dated 01.05.2023; considering the arguments advanced by learned counsel for the petitioner, it is appropriate that accused-petitioner **Harish Darji S/o Shankarlal Darji** shall be released on interim bail during pendency of this bail application provided he furnishes a personal bond in the sum of Rs.1,00,000/- (Rupees Fifty Thousand Only) together with two sureties in the sum of Rs.50,000/- (Rupees Twenty Five Thousand Only) each to the satisfaction of the learned Trial Court with the stipulation that he shall appear before that Court and any court to which the matter is transferred, on all subsequent dates of hearing and as and when called upon to do so.

5. It is made clear that the accused-petitioner shall not involve in any other offence(s) during currency of the interim bail and he shall mark his presence twice in a month i.e., 1st and 15th of every month in the concerned police station. It is further directed that he shall share his mobile number with the SHO of the concerned police station.

6. If any breach of these conditions is reported or come to the notice of the Court, the same shall alone be a reason for the trial court to cancel the interim bail granted to him by this order.

7. Learned State counsel is directed to call for the case diary on the next date of hearing.

List on 10.01.2024.

(ANIL KUMAR UPMAN),J