

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

CRM-M No.24484 of 2018

Date of Decision: 20.11.2018

Anil Kumar alias Monu

....Petitioner

Versus

State of Punjab

....Respondent

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Ashwani Kumar Bansal, Advocate
for the petitioner.

Ms. Rashmi Attri, A.A.G., Punjab.

DAYA CHAUDHARY, J.

This petition has been filed under Section 439 Cr.P.C for grant of regular bail to the petitioner in case FIR No.14 dated 19.01.2018 registered under Sections 22/61/85 of the NDPS Act at Police Station Maur, District Bathinda.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case, whereas, he was not involved as no recovery was effected from him. As per allegations in the FIR, the petitioner was found to be in possession of 46 Vials of Onerex containing 100 ml. each and 13 strips of *Carisoma* containing 10 tablets each. Learned counsel also submits that the bail petition of the petitioner has been dismissed by the lower Court on the ground that the intoxicant salt recovered from the petitioner was *Codiene Phosphate* which comes out to be 4.6 kgs., and above 1000 gm. is a commercial quantity. Learned counsel also submits that

the pure content of *Codiene* of said recovery has not been specified in the order. As per notification of 2009, the whole quantity is to be taken into consideration at the time of ascertaining the quantity recovered. However, notification dated 14.11.1985 still overrides the 2009 Notification which talks about Psychotropic substances, Narcotic drugs as well as manufacture drugs. As per notification of 1985, it falls under the definition of manufacture drugs. *Codiene* falls at Sr. no.35 in the list of manufacture drug as per said notification. Learned counsel also submits that no independent witness was joined at the time of recovery by the police party, whereas, the alleged recovery was effected near Railway Station during day time. There is no other case against the petitioner and he is in custody from the date of lodging of FIR i.e 19.01.2018.

Learned counsel for the petitioner also submits that under similar circumstances, one accused, namely, Gurmail Singh @ Gola in case FIR No.32 dated 17.04.2018 registered under Sections 22/61/85 of NDPS Act and Sections 29/61/85 of the NDPS Act added later on at Police Station Nandgarh, District Bathinda was released on bail vide order dated 06.09.2018 passed in **CRM-M No.32559 of 2018**. Challan has been presented and trial may take long time to conclude and no useful purpose would be served by keeping the petitioner behind bars. All witnesses are the official witnesses and there is no possibility that the petitioner may tamper with the evidence or influence the witnesses.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner on the ground of recovery of huge quantity but she has not disputed the custody period and also the fact that no other case is pending against the petitioner.

I have heard learned counsel for the parties and have also gone through the case file carefully.

By considering the submissions made by learned counsel for the petitioner and the fact that the petitioner is in custody since the date of lodging of FIR i.e 19.01.2018; no other case is pending against him and that under similar circumstances on the same allegations and recovery, the accused in **CRM-M No.33434 of 2016** and in **CRM-M No.6188 of 2016** were released on regular bail, the present petition is allowed and petitioner, namely, Anil Kumar alias Monu is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court.

(DAYA CHAUDHARY)
JUDGE

20.11.2018
gurpreet

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No