

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.M-10067 of 2020

Date of Decision: September 28, 2020

Sandeep Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Amit Choudhary, Advocate,
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.77 dated 01.07.2019, under Section 22(c) N.D.P.S.Act, 1985, registered at Police Station, Jakhal, District Fatehabad. The petitioner is in custody since his arrest on 02.07.2019.

As per the allegations in the FIR, on 01.07.2019, when the police party laid a barricading near Police Post Mayond Bridge Kulan, a motor cycle was seen coming from the side of Miyond Kalan. ASI signaled him to stop and on seeing the police party, the suspect tried to turn the motor cycle, which turned off. Then the police party apprehended the boy and on enquiry, he disclosed his name as Jitender @ Gullu. On suspicion, search of the motor cycle was conducted and 90 strips of Tramadol Hydrochloride 100 Mg. were recovered. On these broad allegations, the above FIR was registered.

Learned counsel for the petitioner contends that initially Jitender @ Gullu was arrested in the above-mentioned FIR and on his disclosure statement, co-accused Brijesh Kumar @ Bittu and the petitioner were arrested on 02.07.2019. He further contends that according to the prosecution, these two accused were arrested with 5000 tablets when the petitioner was purchasing 2000 tablets from Brijesh Kumar @ Bittu. He has invited the attention of the Court to the order dated 28.11.2019 passed by Additional Sessions Judge, Fatehabad, whereby the said accused was released on bail. According to him, the case of the prosecution regarding presence of co-accused Brijesh Kumar at the alleged place of occurrence was surrounded by serious doubts and, therefore, the said concession was extended to him. He prays that in the above background, the petitioner also deserves the similar concession as the trial is not making any progress.

On the other hand, learned State counsel assisted by ASI Ishwar Singh, has opposed the prayer on the ground that the recovered 2000 tablets brings the case within the ambit of commercial quantity. He, on instructions, has apprised the Court that the charges in the above case were framed on 10.12.2019, but no prosecution witness has been examined so far. He further states that the petitioner is not involved in any other case of similar nature.

Considering the above background, custody of the petitioner and the fact that the trial is likely to consume considerable time to conclude as the country continues to be in the throes of global pandemic, namely, COVID-19 and the State Government and District Administration have also imposed various restrictions to curb its spread, this Court does not find any reason to decline the prayer. The petitioner after his arrest on 02.07.2019, is

presently confined in judicial custody, therefore, his further detention behind the bars may not be justified.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Fatehabad.

The petition is allowed.

September 28, 2020
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No