

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

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**CRM-23480-2020 in
CRM-M-19758-2019.
Date of Decision: 29.09.2020.**

Pawan Kumar

....Applicant/Petitioner.

Versus

State of Haryana

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Vishal Garg Narwana, Advocate for applicant/petitioner.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

CRM-23480-2020

This application under Section 482 Cr.P.C. is for preponing the date of hearing of the main petition, which is already fixed for 21.12.2020.

Notice of the application.

At the asking of Court, Mr. Neeraj Poswal, Assistant Advocate General, Haryana, accepts notice of the application and stated that he has no objection if application is allowed.

In view of the grounds mentioned in the application and no objection by learned State counsel, hearing of the main petition is preponed and is taken on Board today itself.

CRM is allowed.

Main Case

Present petition under Section 439 Cr.P.C is for grant of regular bail to petitioner-**Pawan Kumar** in case FIR No.107 dated 05.07.2017 under Sections 21(b) and 27-A of NDPS Act, registered at Police Station Odhan, District Sirsa.

Learned counsel for the petitioner *inter alia* contends that petitioner has no nexus whatsoever with the alleged offence. He further submits that allegedly ten bottles of ONEREX Codeine Phosphate Tripodyne of 100 ml. each were recovered from the conscious possession of petitioner. He further urges that actual weight of above said contraband, if converted into grams, does not exceed one kilogram. He further urges that Section 2(viia) of NDPS Act defines the term “commercial quantity” in relation to narcotic drugs and psychotropic substances, means any quantity greater than the quantity specified by the Central Government by notification in the Official Gazette. He further urges that in terms of Serial No.28 of the Table attached to the NDPS Act when read in consonance with Section 2(viia) of the NDPS Act, 'Codeine' weighing upto one kilogram is to be termed as “intermediate or non-commercial quantity” and as such alleged contraband is to be categorized as of “non-commercial quantity”. He further submits that petitioner is in custody since 14.03.2019 and he is no more required by the Police for any investigation purpose. He further submits that challan has been presented in Court and trial has already commenced. He further urges that since trial of the case would take sufficient time to conclude, no useful purpose would be served by keeping the petitioner in custody further and he may be released on bail.

On the other hand, learned State counsel while opposing instant petition has vehemently argued that keeping in view seriousness of offence, petitioner does not deserve the concession of bail.

I have heard learned counsel for the parties.

At this stage, without commenting anything on the merits of the case lest it may prejudice the outcome of the trial but taking into consideration the fact that petitioner is in custody since 14.03.2019; that petitioner is no more required by the Investigating Agency for investigation purpose; that challan has already been presented in Court and since consequent trial of the case would take sufficient time to conclude, no useful purpose would be served by detaining the petitioner in custody further, thus, he deserves the concession of bail.

In view of above, instant petition for grant of regular bail moved by petitioner-**Pawan Kumar** is allowed and he is ordered to be released on bail on his furnishing personal/surety bonds to the satisfaction of Trial Court/ Chief Judicial Magistrate/Duty Magistrate, Sirsa, as the case may be.

(LALIT BATRA)
JUDGE

29.09.2020

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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No