

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Criminal Miscellaneous No.M-25585 of 2020

Date of Decision: September 07, 2020

Hanuman

..... PETITIONER(S)

VERSUS

State of Haryana

..... RESPONDENT(S)

. . .

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

. . .

PRESENT: - Mr. Dheeraj Narula, Advocate, for the petitioner.

Mr. Parveen Kumar Aggarwal, Deputy Advocate
General, Haryana.

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Sant Parkash, J

The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.

The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.215 dated 18.07.2020 under Section 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (for short, 'Act'), registered at Police Station, Ellenabad, District Sirsa.

As per the prosecution, during patrolling duty headed by SI Tara Chand, a boy was apprehended having a black plastic carry bag in his right hand, who on interrogation, disclosed his name as Hanuman son of

Mahender Singh, resident of village Neemla. On search, 200 capsules, salt tramadol, were recovered. After necessary formalities, FIR was registered and petitioner was arrested.

Learned counsel for the petitioner has contended that petitioner has been falsely implicated in the present case. He is a salesman at a cloth shop and went to the house of one Mange Ram to collect outstanding amount from him. At the time of his visit, police party raided the house of Mange Ram and took them to police station. 40 Strips of Tramadol capsules were recovered from the possession of Mange Ram, who was booked in FIR No.213 and after one day, the present FIR has been registered against the petitioner. Further, there is non-compliance of Section 50 of the Act. No independent witness has been joined in the investigation. The petitioner has been in custody since 18.07.2020. The contraband allegedly recovered from the petitioner is much below the commercial quantity. FSL report has not yet been received to certify that the alleged recovery is either a narcotic drug or not.

Per contra, learned State counsel has opposed the petition while contending that recovery of intoxicating substance is a serious offence. No license or prescription slip was shown.

I have heard learned counsel for the parties and with their kind assistance, have gone through the record of case.

As per the prosecution 200 intoxicating capsules (Salt Tramadol), weighing 126.8 grams were allegedly recovered from the possession of the petitioner. It is not disputed that the recovery of contraband is non-commercial and he is behind bars since 18.07.2020. The petitioner is not involved in any other case of similar nature.

Keeping in view the totality of facts & circumstances of the present case and the fact that since the trial of the case will take long time, no useful purpose would be served by keeping the petitioner in custody further, since he is already behind bars since 18.07.2020; including the fact that recovery is non-commercial, the present petition is allowed.

The petitioner is ordered to be released on bail on his furnishing adequate bail/surety bonds to the satisfaction of the trial court/Chief Judicial Magistrate/Duty Magistrate concerned.

(Sant Parkash)
Judge

September 07, 2020
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No