

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

**CRM-M-34654 of 2020
Date of Decision: 12.11.2020**

Devesh

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Kartar Singh, Advocate
for the petitioner (s).

Mr. Kirpal Singh Thakur, AAG, Haryana.

KARAMJIT SINGH, J.(Oral)

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

The present petition has been filed under Section 439 Code of
Criminal Procedure for grant of regular bail to the petitioner in case FIR
No.216 dated 22.9.2020 registered for the offences punishable under
Sections 22-C, 27-A/ 61/ 85 of NDPS Act at Police Station Sadar Tohana,
District Fatehabad.

On notice, the bail application has been contested by the
learned State counsel.

Heard.

Counsel for the petitioner submits that the petitioner was
having no connection with the alleged recovery of contraband which was
effected from non-applicant/Harjinder Singh @ Gora on 22.9.2020. It is
further contended that the petitioner is named as accused on the basis of

intoxicants were transported in Swift Dzire Car having registration No.HR-22M-5231 belonging to the petitioner.

Counsel for the petitioner while referring to Annexure P-2 submits that the registered owner of the said car was one Neeraj Kumar. He has prayed that in these circumstances, the petitioner is entitled for grant of regular bail.

On the other hand, learned State counsel on instructions from ASI Amarjit Singh submits that the car in question belonging to the petitioner was used for carrying the medical intoxicants which were later on recovered from the possession of non-applicant/Harjinder Singh @ Gora. Learned State counsel has further contended that it being a case of recovery of commercial quantity of contraband, the petitioner is not entitled to any bail.

I have considered the submissions made by the counsel for the petitioner as well as the learned State counsel.

As per the FIR, the police received secret information and on the basis of the same, 1800 tablets of Alprazolam weighing about 253.8 grams and 1500 tablets of Tramadole Hydrochloride weighing 492 grams were recovered from non-applicant/Harjinder Singh @ Gora on 22.9.2020. During the investigation, Kamaljit Singh was nominated as accused on the basis of disclosure made by Harjinder Singh. Then Kamaljit Singh was arrested who made disclosure that Swift Dzire car having registration No.HR22-M-5231 belonging to the petitioner was used by him for transportation of the above said medical intoxicants.

As per Annexure P-2, the aforesaid car is not belonging to the petitioner. In this case, no contraband has been recovered from the

possession of the petitioner, who was not named in the FIR. In these circumstances, I am of the view that the bar provided under Section 37 of the NDPS Act would not be applicable to the case of the petitioner. The petitioner is in custody since 24.9.2020 and presently, he is lodged in judicial custody. It will take time for presentation of the challan. No useful will be served by detaining the petitioner in custody for any longer period.

Accordingly, without commenting upon the merits of the case and keeping in view the fact that conclusion of trial will take considerably long time, the present petition is allowed. Petitioner-Devesh is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Fatehabad.

November 12, 2020

Paritosh Kumar

**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No