

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

**CRM-M No.48902 of 2019 (O&M)
Decided on: 06.01.2020**

Chander Parkash @ J.P.

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. K.S. Godara, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this 3rd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.198 dated 23.07.2018, for offence punishable under Sections 21, 22-C of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') registered at Police Station Sadar Dabwali, District Sirsa.

Counsel for the petitioner has submitted that the first petition i.e. CRM-M-42606-2018 seeking regular bail to the petitioner was disposed of on 15.12.2018, by granting interim regular bail awaiting the FSL report and thereafter, his petition for regular bail i.e. CRM-M-22837-2019 was dismissed on 24.05.2019, as the same was filed without surrendering before the trial Court. It is also submitted that the petitioner also filed an anticipatory bail i.e. CRM-M-42592-2019 which was dismissed as withdrawn on 04.10.2019, with liberty to surrender before the trial Court and apply for regular bail.

Counsel for the petitioner has argued that as per the

allegations in the FIR, the Investigating Officer has apprehended one Bhim Sain on suspicion and after giving him a notice, he was found in possession of 75 boxes of Tramadol Hydrochloride tablets. It is further submitted that the petitioner was named by the aforesaid Bhim Sain in his disclosure statement and thereafter, the petitioner was arrested and he was granted interim regular bail awaiting the report of the FSL. It is also submitted that again the petitioner has surrendered before the trial Court and applied for regular bail, which was dismissed on 05.11.2019.

Counsel for the petitioner has also argued that Bhim Sain, who is the main accused has already been granted the concession of regular bail vide order dated 11.12.2019 passed by this Court in CRM-M No.51728 of 2019. The operative part of the said order reads as under:-

“...Counsel for the petitioner has further argued that after a notice under Section 50 of the NDPS Act was given to the petitioner, giving option to be searched before the Gazetted Officer or the Magistrate and when the petitioner reposed confidence in the same Investigating Officer/ASI Krishan Kumar, the subsequent investigation was conducted by the same I.O. without calling the second Investigating Officer and therefor, one of the moot point to be decided during the course of trial would be as to whether the proper procedure was followed or not while conducting the search of the petitioner. It is further submitted that the petitioner was granted the concession of interim bail on 11.03.2019 and after availing the same,

he had surrendered on 23.05.2019.

Counsel for the petitioner has also argued that the case before the trial Court is now fixed for prosecution evidence, however till date, no prosecution witness has been examined. Counsel for the petitioner relies upon the order dated 06.09.2019 passed in CRM-M No.36039 of 2019 vide which the co-accused namely Rajender Parshad @ Raju was granted the concession of regular bail...”

Counsel for the petitioner has further submitted that even the another co-accused namely Rajender Parshad @ Raju has also been granted the concession of regular bail vide order dated 06.09.2019 passed in CRM-M No.36039 of 2019.

Counsel for the State, on instructions from ASI Ishwar Singh, has not disputed the factual position that the petitioner was nominated in the FIR on the basis of the disclosure statement of Bhim Sain, who has already been granted the concession of regular bail. It is further submitted that the petitioner is not facing any other case/trial under the NDPS Act and as per the Custody Certificate, the petitioner has undergone 06 months and 18 days in custody.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody since 02.08.2018; the main accused namely Bhim Sain has already been granted the concession of regular bail; the custodial interrogation of the petitioner is not required and it will take some time in conclusion of the trial, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial

Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

06.01.2020
yakub

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No