

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

CRM-M-4284 OF 2021 (O&M)

DATE OF DECISION : 09.04.2021

Azad Singh

...Petitioner

versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Shivam Malik, Advocate,
for the petitioner.

Mr. Manoj K. Taya, AAG, Haryana.

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

This is second foray of the petitioner to seek regular bail in case FIR No.272 dated 18.07.2019 registered under Section 22 (c) of NDPS Act at Police Station Civil Line, Jind, District Jind.

2. Per FIR, on 18.07.2019, police officials while on patrolling duty were present near Gohana crossing in village Pindara, one person (petitioner) carrying one yellow coloured plastic bag in his right hand was seen coming from Jind side. On seeing the police party, he turned around and started walking towards Gurukul. He was stopped by the police party. Suspecting some narcotic substance in the plastic bag held by him, he was served with a notice. Per his consent, search was conducted in the presence of a Gazetted Officer and 62 bottles of Onerex syrup containing Codeine Phosphate of 100 ml each were recovered from his possession. Petitioner was arrested. FIR was registered and further investigation was carried out.

3. The petitioner is stated to be in custody since 18.07.2019.

4. Learned counsel for the petitioner contends that petitioner is a Chemist by profession and has been falsely implicated in the case. Allegedly, 62 bottles of Onerex Syrup containing Codeine Phosphate of 100 ml each (commonly used for cough) were recovered from the petitioner, purportedly without there being any purchase bills supporting the legitimacy of its procurement from the manufacturer.

5. Vide an earlier order dated 21.08.2020, this Court had granted an opportunity to the petitioner to substantiate his plea by providing the valid bills qua purchase of the prescribed medicine in question. However, the petitioner could not produce the purchase bills and resultantly he continues to be under incarceration.

6. Between then and now the petitioner continues to languish in jail. However, the challan is stated to have been filed. Investigation is complete and out of total 15 witnesses, 03 material witnesses have already been examined. Rest of the witnesses are stated to be government officials and are formal in nature. In view thereof, there is no likelihood of the petitioner influencing their testimonies in case he is let out at this stage.

7. Learned counsel for the petitioner further strenuously argues that innocence of the petitioner shall be proved only after trial and at this stage, on humanitarian grounds, the petitioner is entitled to be released on bail. He is the only bread winner of his family. While the petitioner was in custody, he lost his father and could not even attend last rites of his father. It is further contended that petitioner is father of two minor children (one daughter aged 06 years and one son aged 03 years). There is no one in his absence to look after them and they are at the mercy of relatives for their survival for lack of finances, as there is no other earning member in his

family. His wife is stated to be a home maker and she has no independent means of earning any livelihood. Investigation is complete and challan has been presented. The trial is likely to take long time as progress thereof is very slow due to current pandemic scenario.

8. Per contra, learned State counsel opposes the bail plea. She, inter alia, argues that petitioner was apprehended at the spot and narcotic substance was recovered from his possession.

9. I have heard rival contentions of both the learned counsel.

10. Even though the trial is going on, but its pace is admittedly slowed down due to the pandemic. Same is not likely to conclude anytime soon. Material witnesses have already been examined.

11. Considering the overall scenario, I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody. In the premise, without commenting on the merits of the case, the instant petition is allowed.

12. The petitioner shall be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/ Duty Magistrate, as the case may be.

13. It is, however, made clear that anything observed in the instant order is only for the purpose of bail and shall not be construed, in any manner, as an expression on the merits of the case. The trial Court to proceed without being influenced by the same.

APRIL 09, 2021

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Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No

(ARUN MONGA)

JUDGE