

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

CRM-M-7043-2021(O&M)

Date of decision:19.02.2021

Sona Ram @ Sonu

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

Ms. Kirti Singh, DAG, Haryana

ANIL KSHETARPAL, J.

This is second petition for grant of bail pending trial in a criminal case arising from FIR No.209 dated 08.09.2019, registered under Section 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985, at Police Station Sadar Sirsa, District Sirsa.

The first petition was dismissed on 23.09.2020 with the following order:-

“The petitioner prays for grant of pre-arrest bail pending trial in a criminal case arising from FIR No. 209 dated 08.09.2019, registered under Section 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (hereinafter referred to as “the 1985 Act”), at Police Station Sadar Sirsa, District Sirsa.

As per the case of the prosecution, the petitioner along with his pillion rider was apprehended with 2800 NRX Tramadol Hydrochloride Diclofenac Sodium Dicyclomine Hydrochloride Chlorpheniramine Meleate Capsules

Parvoris SPAS Ridley.

Learned counsel for the petitioner contends that the recovery of the narcotics is from the pillion rider and the petitioner cannot be said to be in a conscious possession thereof. He further contends that the petitioner is in custody for a period of one year & one month approximately.

On the other hand, Mr. Chetan Sharma, Assistant Advocate General, Haryana has brought to the notice of this Court that the report from the Forensic Science Laboratory has been received, according to which the capsules contained prohibited substance i.e. Tramadol Hydrochloride. The total weight thereof comes to 1.752 Kgs. Whereas the commercial quantity starts from 250 grams.

On other hand, learned counsel for the petitioner relies upon an order dated 08.01.2020 passed by the Co-ordinate Bench of this Court in **Criminal Misc. No. M-51767-2019 (“Prahlad Singh vs. State of Haryana”)**

This Court has carefully gone through the order passed by the Co-ordinate Bench of this Court in the aforesaid case. In that case, the total recovery was 510 capsules of Tramadol Hydrochloride. The Court, in the facts of the said case, granted regular bail to the petitioner therein. It will be noticed here that Section 35 of the 1985 Act provides for a statutory presumption of culpable mental state. The attention of the Court in the case of was not drawn to Section 35 of the 1985 Act.

The recovery in the present case is of commercial quantity and hence, Section 37 of the 1985 Act is applicable which lays down that unless the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such an offence and that he is not likely to commit any offence while on bail, only then the accused can be released on bail.

Keeping in view the provisions of Section 37 of the 1985 Act as also the facts of the present case, no ground to grant the concession of regular bail to the petitioner is made out and hence, the present petition is dismissed.”

Learned counsel for the petitioner, although, made a sincere attempt, however, failed to draw the attention of the Court to any fresh or new ground for grant of bail.

Hence, dismissed.

19.02.2021

rekha

Whether speaking/reasoned

Whether Reportable

Yes /No

Yes / No

(ANIL KSHETARPAL)
JUDGE