

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

205-A

CRM-M-12353 of 2021
Date of decision:07.10.2021

Amrit Pal Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Jagatvir Dhindsa, Advocate
for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

SUVIR SEHGAL, J. (Oral)

Heard through video conferencing.

Instant petition has been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case FIR No.165 dated 21.09.2020 registered under Sections 22 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "NDPS Act") at Police Station Khamano, District Fatehgarh Sahib (Annexure P-1).

As per the case of the prosecution, the FIR (Annexure P-1) was registered when on basis of information, a car was intercepted and recovery of 17500 tablets of Tramadol was effected. The car driver disclosed his name as Ranjit Singh @ Lavi. During investigation, it was revealed that owner of the car was brother-in-law of Ranjit Singh.

Counsel for the petitioner has submitted that neither the petitioner was apprehended at the spot nor any recovery has been effected

from him and he has been arraigned as an accused and arrested on 01.10.2020 on basis of confessional statement of accused Ranjit Singh @ Lavi. He submits that reason for involving the petitioner is because his wife had submitted a representation dated 15.09.2020 (Annexure P-3) regarding his false implication in an earlier registered FIR bearing No.174 dated 27.08.2020 under Section 22 of the NDPS Act at Police Station 34, Chandigarh. Counsel submits that at the time, the petitioner was named, he was in custody in first FIR. Reference has also been made to a petition filed under Section 156(3) Cr.P.C. (Annexure P-4) to submit that the petitioner's wife had approached the Magistrate for taking action against the police officials for falsely implicating him in the first case. He submits that although in the status report dated 30.09.2021 filed by way of an affidavit of Deputy Superintendent of Police, Circle Khamano, District Fatehgarh Sahib, which has been taken on record, the petitioner has been described as “cousin” of accused Ranjit Singh but he is not related to him. Still further, he submits that the petitioner is a Pharmacist and has a license, Annexure P-2, issued under Drugs and Cosmetics Act, in the name of M/s Singh Medicos, for sale of specified scheduled drugs, which is valid till 2024. Counsel asserts that besides above mentioned two cases, petitioner is not involved in any other criminal case, investigation qua him is complete, challan has been presented, charge has been framed and the trial is likely to take time to conclude, therefore, he deserves to be released on bail.

Per contra, State counsel upon instructions from ASI Ram Singh, has opposed the petition and submitted that since contraband

recovered from the co-accused falls within the ambit of commercial quantity in terms of the notification issued by Government, under the provisions of NDPS Act, the petitioner does not deserve the concession of bail. He has also highlighted the pendency of second FIR against the petitioner under the NDPS Act to oppose his prayer. As per his instructions, challan has been presented on 16.02.2021, charge has been framed on 07.07.2021, out of total 22 prosecution witnesses, none has been examined.

I have considered the respective submissions of counsel for the parties.

A Division Bench of this Court in *Dharamveer and another versus State of Punjab 2015 SCC Online P & H 5526*, has held that as no recovery has been effected from the accused, the bar as contained in Section 37 (1) (b) of the NDPS Act, is not attracted.

Keeping in view the facts and circumstances in their totality, the custody period of the petitioner, which by now is more than one year and the fact that the trial is likely to take time to conclude, this Court is *prima facie* of the view that he deserves to be enlarged on bail, during the pendency of the trial.

Without examining the merits or demerits of the arguments addressed by counsel for the parties, the petition is allowed. The petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

While being released on bail, the petitioner shall furnish an undertaking to the effect that he will not get involved in sale, purchase or

trade of any prohibited substance and in case, he does so, it shall be open to the State to seek cancellation of the bail.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

October 07, 2021

savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>