

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

**CRM-M-17527-2021
Date of decision: 09.11.2021**

Parveen Kumar @ Beena

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Abhinav Gupta, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 170 dated 26.08.2020, registered under Sections 22(b), 22(c) and 29 of the NDPS Act, 1985 at Police Station Dhand, District Kaithal.

Learned counsel for the petitioner submits that the FIR was registered on the basis of a secret information that petitioner Parveen Kumar is in the business of selling narcotic medicines and he is coming on a motorcycle. On receiving such information, a notice under Section 42 of the NDPS Act was prepared and was sent to the police station concerned and thereafter, the Investigating Officer went to the house of the petitioner in a Govt. vehicle, where the petitioner was seen coming on a motorcycle. He was apprehended on suspicion and thereafter, by giving a notice under Section 50 of the NDPS Act, a Gazetted Officer was called at the spot and

recovery of 13740 tablets of Alprazolam and 1950 tablets of Tramadol HCL were recovered.

Learned counsel further submits that the alleged recovery was effected on 26.08.2020, whereas the sample parcel was sent to FSL on 07.09.2020, however, the same was deposited with FSL on 08.09.2020.

Learned counsel further referred to the statement of PW-1 Parveen Kumar, who was handed over the sample parcel by MHC on 07.09.2020 in the morning, whereas he handed over the same to FSL on the next date i.e. 08.09.2020. It is, thus, submitted that there is every possibility of tampering with sample as in the cross examination this witness has admitted that the sample parcel remained in his custody till the time he deposited the same with the FSL on 08.09.2020.

It is further submitted that petitioner is in judicial custody since 26.08.2020.

Learned State counsel submits that out of total 16 prosecution witnesses, 03 witnesses have been examined and the petitioner is not involved in any other case and has no antecedents of involvement in any other case under the NDPS Act.

After hearing learned counsel for the parties, without commenting upon the merits of the case, considering the statement of PW-1 Parveen Kumar, who kept the sample parcel overnight with him on 07.09.2020 and deposited the same with the FSL on the next day i.e. 08.09.2020 and also in view of the fact that even the sample parcel was sent after a delay of about 11 days from the date of alleged recovery which makes the case of prosecution doubtful, the instant petition is allowed.

The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

09.11.2021

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No