

In virtual Court

CRM-M-26440-2021

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-26440-2020 (O&M)

Date of decision: 02.07.2021

Pankaj

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Akashdeep Singh, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

This is 2nd petition for grant of regular bail in FIR No.493 dated 05.10.2018 under Sections 21, 22, 29 of NDPS Act, registered at Police Station Urban Estate, District Rohtak; earlier one was dismissed as withdrawn on 18.09.2019.

Learned counsel for the petitioner submits that new ground for filing this second petition is that challan has been presented; the petitioner, as on today, is in custody for the last 02 years and 08 months and till date, out of total 16 prosecution witnesses cited by the police, none has been examined and the trial is delayed. It is further submitted that as per allegations in the FIR,

registered at the instance of SI Sanjay Kumar, on 05.10.2018, while on patrol duty along with his co-officials, stopped a car bearing registration No.HR-29AD-1260. On inquiry, driver told his name as Pawan son of Hava Singh, whereas the person sitting on co-driver seat told his name as Pankaj son of Om Parkash (petitioner). Thereafter, on suspicious, checking of the car was done and from its back seat, big polythene bag and cartoons were recovered. On asking, both of them informed that these are English medicines. When they could not produce the permit and licence, the complainant gave information to Drug Inspector Mandip Mann, who had shown his inability to come at the spot and stated that SI Sanjay Kumar should check the same and submit the report. Upon this, SI Sanjay Kumar, with the help of his co-officials, opened the cartoons and plastic bag and from the petitioners, recovery of 10 cartoons containing 120 vials of onerex of 100 ml each, two cartoons containing 20 packets of mifegoel kit, total containing 100 tablets, 20 packets shipan 10x2 ml injection, total 200 injections, one packet mephentermine sulphate injection IP total 10 injections, 09 packets aglo kit total 450 tablets, 10 packets oxcin oxytocin injection IP total 500 injections, one packet ketmine-50, total 05 injections, 50 packets proyesterone injection total 50 injections, 09 packets alprazolam tab IP .5 mg total 4050 tablets, 04 packets spasmo-proxyvon plus total 576 capsules, 20 packet alprozolem tab IP .5 mg total 16000 tablets, 10 packets 50-50 injections total 1000 injections, 03 packets drygesterone tablets IP total 300 tablets, 05 packets pentablab for 1M/IV total 500 injections, 543 tablets vinicor Am, 196 tablets Trampoline hydrochloride, 10 injections

baboprist, 30 injections Tenanus (Adsoreed) IP belt .5 ml, 100 bottles 50 ml beta-dine was effected.

Learned counsel for the petitioner further submits that out of the recovery effected, 09 items were not covered under the NDPS Act and the petitioner is in custody since the time of registration of FIR. It is also submitted that it will be a matter of trial whether proper procedure was followed by the Investigating Officer, as it is own case in the FIR that when an information was sent to the Drug Inspector, he had shown his inability to come at the spot and on his asking, the complainant/Investigating Officer himself conducted the search without asking for second Investigating Officer, therefore, it will be a debatable issue whether Section 42 of NDPS Act was properly complied with or not, as it is apparent from bare perusal of the FIR that after effecting the recovery, information was sent to the police station.

Learned counsel for the petitioner has also submitted that the petitioner is first offender; he is not involved in any other case and considering the fact that he is in long custody of about 02 year and 08 months and also in view of the fact that till date, no prosecution witness has been examined, as the trial is delayed substantially due to COVID-19 situation in the country, the petitioner may be released on regular bail.

Learned State counsel could not dispute the factual position, however, it is submitted that on the basis of disclosure of the petitioner, some other accused were also nominated. Learned State counsel has filed the custody certificate dated 01.07.2021 in the Court today. As per the custody certificate,

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the petitioner is in custody for the last 02 years, 08 months and 23 days and is not involved in any other case. It is also not disputed that out of total 16 prosecution witnesses, none has been examined so far.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the aforesaid facts and circumstances of the case, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

02.07.2021
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No