

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

204

**CRM-M No.41049 of 2021 (O&M)
DATE OF DECISION: 13th DECEMBER, 2021**

Pawan

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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In virtual Court

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Present : Mr. Anshumaan Dalal, Advocate for the petitioner.

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RAJBIR SEHRAWAT, J. (Oral)

This is the fifth petition filed by the petitioner under Section 439 of Cr.P.C. for grant of bail pending trial in case FIR No.493 dated 05.10.2018 registered under Sections 21, 22 and 29 of NDPS Act, 1985, at Police Station Urban Estate Rohtak, District Rohtak, Haryana.

It is submitted by the counsel for the petitioner that even as per the police investigation, the co-accused, namely, Pankaj has disclosed that the petitioner was engaged by him only as a driver on monthly salary of Rs.2,000/-. Even at the time of alleged recovery, the said Pankaj was traveling in the said vehicle. Therefore, it is not the petitioner, rather, it would be the Pankaj, who can be said to be the owner of the consignment found in the vehicle. However, the co-accused Pankaj has already been granted bail by a Co-ordinate Bench of this Court, vide order dated 02.07.2021. There is no other case against the petitioner. The petitioner has

been in custody for more than three years as of now. Since, the prosecution evidence has already been started, therefore, the petitioner is not even required for any investigation purposes. Hence, the petitioner deserves to be granted bail pending trial.

Notice of motion.

Mr. Harish Rathee, Deputy Advocate General, Haryana, accepts notice on behalf of the respondent-State.

On the other hand, the counsel for the State submits that the petitioner was driving the vehicle when the contraband was recovered from the vehicle. Therefore, a presumption is raised against the occupants of the vehicle qua being in conscious possession of the said material under the provisions of the NDPS Act. Hence, the petitioner was caught with the heavy consignment of the contraband. He does not deserve to be granted bail pending trial. However, it is not disputed by the counsel for the State that the petitioner has undergone more than three years of custody and that the co-accused Pankaj has been granted bail by the Co-ordinate Bench of this Court, after earlier denial of bail to the present petitioner.

In view of the above, but without expressing any further opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial, subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

13th DECEMBER, 2021
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(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes
Yes

No
No