

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
202 (PROCEEDINGS THROUGH V.C.)

CRM-M-40428-2020

Date of decision:28.07.2021

VARINDER KUMAR

..*PETITIONER*

Vs.

STATE OF PUNJAB

...*RESPONDENT*

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sanjiv Gupta, Advocate,
for the petitioner.

Mr. S.P.S.Tinna, Addl. A.G. Punjab,
for the State.

AUGUSTINE GEORGE MASIH, J.(ORAL)

Prayer in this application is for grant of regular bail to the petitioner, who has been nominated as an accused on the statement of the co-accused Sunil Kumar, in FIR No. 69 dated 12.08.2019 registered under Section 22 of the NDPS Act, 1985 registered at Police Station S.G.N. Dev Thermal Plant, District Bathinda

It is the contention of the learned counsel for the petitioner that the only evidence, which has been collected against the petitioner, is in the form of the statement of Sh. Krishan Bansal, who not only nominated the petitioner but has stated that the petitioner had come to the Transport Company and had sought delivery of 10 parcels which were to be received from Gujarat in the name of BMW Medicos. Since the said parcels have not yet reached the destination, he informed Sh. Krishan Bansal that one Sh. Sunil Kumar @ Sonu would come and collect the same and that the said

parcels belong to him as well as Sunil Kumar. Counsel contends that no recovery has been effected from the petitioner and that the petitioner is in custody since 17.08.2019. However the counsel for the State, on the basis of the custody certificate which has been received in Court today through email, states that the date of custody is 19.08.2019.

Be that as it may, the fact remains that the applicant-petitioner, at this stage, has completed more than 1 year and 11 months as per the custody certificate and no evidence has been recorded as of now despite the charges having been framed on 24.03.2021. He asserts that the petitioner may be granted the concession of bail in the light of the fact that in another FIR i.e. FIR No. 44 dated 04.04.2019, under Section 22 of the NDPS Act registered at Police Station Kotwali, District Bathinda, he has been granted the concession of bail by this Court vide order dated 27.01.2020 (Annexure P-9).

Learned counsel for the State, on the other hand, has opposed the prayer of the petitioner on the ground that although no direct recovery has been effected from the petitioner, however, from the co-accused, on the basis of his disclosure statement, 2,34,000/- tablets of Tramadol have been recovered. The statement of Sh. Krishan Bansal clearly indicates that the petitioner has admitted before him that the said 10 parcels, which contained these tablets, were not only owned by Sunil Kumar, who is the co-accused, but by the petitioner also jointly. He, therefore, prays that the petitioner be not granted the concession of bail as prayed for.

I have considered the submissions made by the learned counsel for the parties and keeping in view the fact that no recovery has been effected from the petitioner and he is in custody since 17.08.2019 with the

custody period being more than 1 year and 11 months with no witness having been examined till date, the trial is not likely to conclude in near future, the present application is allowed. Petitioner is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, Bathinda.

Any observation made herein above shall have no bearing on the merits of the case during trial in any manner.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

**July 28, 2021
PJ**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No