

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-34555-2019 (O&M)
Date of decision: 07.09.2021

Rakesh @ Rinku

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Jagjit Gill, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this 2nd petition is for grant of regular bail in FIR No.0128 dated 01.09.2018 under Section 22(C) of NDPS Act, registered at Police Station Baragudha, District Sirsa; earlier one was disposed of vide order dated 11.12.2018, granting interim bail till receiving the FSL report.

Learned counsel for the petitioner submits that after receiving the FSL report, the petitioner had surrendered before the trial Court and as on today, he is in custody for the last 02 years, 05 months and 16 days and as per the custody certificate, the petitioner is not involved in any other case. It is

further submitted that as per allegations in the FIR, the police party headed by ASI Sukhdev Singh, while on patrol duty, apprehended the petitioner on suspicion. On inquiry, he told his name as Rakesh @ Rinku and thereafter, a notice under Section 50 of NDPS Act was served upon him that he has a right to be searched before a Gazetted Officer or a Magistrate, however, the petitioner reposed faith in the Investigating Officer. Thereafter, search of the petitioner was conducted and 3000 intoxicant tablets of Tramadol Hydrochloride were recovered.

Learned counsel for the petitioner further submits that it will be a matter of trial whether the complainant himself is the Investigating Officer and has conducted the investigation in a far and impartial manner. It is also submitted that even it will be a debatable issue whether provisions of Section 42 of NDPS Act were properly complied with.

Learned State counsel has filed the custody certificate dated 06.09.2021 in the Court today and has not disputed the factual position, however, it is submitted that the petitioner is involved in four more cases and out of the same, in three cases, he stands acquitted and in one case, he was convicted for three months. It is further submitted that out of 13 prosecution witnesses, 03 PWs have been examined so far and the prosecution evidence was delayed due to COVID-19 situation.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the aforesaid submissions and also considering long custody of the petitioner, 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

07.09.2021
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No