

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-3834-2022 (O&M)
Date of decision: 18.04.2022

Rahul Sharma

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sandeep Verma, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.138 dated 17.10.2020 under Sections 22 & 29 of NDPS Act, registered at Police Station Julkan, District Patiala.

Learned counsel for the petitioner, at the very outset, submits that co-accused/father of the petitioner, namely Jaipal Sharma, has already been granted the concession of regular bail vide order dated 11.11.2021 passed in CRM-M-18145-2021. The operative part of the order reads as under: -

“...Counsel for the petitioner has argued that as per the allegations in the FIR, the police received a secret information that the petitioner Jaipal Sharma along with one Rahul Sharma, are indulged in sale of narcotic tablets and they can be

apprehended along with the narcotic substances. Thereafter, the information was sent to the Police Station and the police party arrested Rahul Sharma and recovered 23,330 intoxicant tablets of TRAMADOL from him.

Counsel for the petitioner has further submitted that though the petitioner was named in the secret information, however, he was not arrested at the spot and was later on, arrested on 23.10.2020 and since then, he is in custody and even after his arrest, no recovery of narcotic substance was effected. It is further submitted that the petitioner is not involved in any other case as in one case registered in the year 2007, he already stands acquitted. Lastly, it is submitted that charges have been framed, however till date, no prosecution witness has been examined.

Counsel for the State has not disputed the factual position that the petitioner is in custody for the last 01 year and 17 days. It is also not disputed that the petitioner was not arrested at the spot and recovery was effected from the co-accused Rahul Sharma, who is son of the petitioner...”

Learned counsel further submits that another co-accused Sahil Kumar, whose name surfaced in the disclosure statement of present petitioner and co-accused Jaipal Sharma, had also been granted the concession of regular bail vide order dated 13.01.2021 passed in CRM-M-796-2021. It is also submitted that the petitioner is doing the diploma in Pharmacy; he is a young man aged about 24 years and has no such history of involvement in any case, as he was assisting his father Jaipal Sharma, who is a Medical Registered Practitioner.

Learned counsel has referred to certain certificates of the petitioner, to submit that he is a student. It is further submitted that on receiving a secret information, ruqa was sent to the police station at 7.40 pm and the FIR was

registered at 08.11. pm and thereafter, raid was conducted in presence of Drug Inspector and DSP at around 10.00 pm, therefore, it will be matter of trial whether Sections 42 of NDPS Act was properly complied with or not. It is also submitted that the petitioner is in custody for the last 01 year, 05 months and 26 days; he is not involved in any other case; out of total 16 prosecution witnesses, only 01 PW has been examined and the trial is delayed due to COVID-19 situation.

Learned State counsel, on the basis of custody certificate dated 15.04.2022 filed in the Court today, has not disputed the factual position.

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

18.04.2022
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No