

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

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CRM-M-4087-2022

Date of Decision: 24.05.2022

Rajesh Kumar @ Pillu

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Monty Goyal, Advocate for petitioner.

Mr. Rana Harjasdeep Singh, Deputy Advocate General, Punjab.

Lalit Batra, J.(Oral)

Present second petition under Section 439 Cr.P.C has been moved by petitioner-**Rajesh Kumar @ Pillu** for grant of regular bail in case FIR No.239 dated 16.11.2019 under Sections 21 and 25 of NDPS Act, registered at Police Station City Jagraon, District Ludhiana, Rural.

Learned counsel for the petitioner *inter alia* contends that allegations levelled against the petitioner are altogether false and frivolous and there is no iota of truth therein. He further urges that petitioner has no nexus whatsoever with the alleged offence. He further urges that allegedly petitioner is party to the first episode dated 16.11.2019, wherein while he was driving vehicle i.e. scooty make Hero Maestro bearing registration No.PB10-FA-1671, recovery of contraband (Heroin weighing 60 grams) was effected from

said vehicle. He further submits that above said contraband falls under “non-commercial quantity”. He further urges that allegedly on 19.11.2019, pursuant to disclosure statement rendered by petitioner, he got recovered contraband (*Tramadol Hydrochloride* weighing 260 grams) from his house. He further urges that in terms of reply dated 04.05.2022 filed by respondent-State reveals that contraband (*Tramadol Hydrochloride* weighing 260 grams) allegedly recovered from petitioner was weighed inclusive of plastic bag and the weight thereof came to 260 grams. He further urges that weight of plastic bag may vary from 5 to 10 grams and in that eventuality actual weight of contraband shown to be 260 grams may vary and as such alleged recovery of contraband would be less than 250 grams, which is 'non-commercial quantity'. He further urges that in view of ratio laid down in ***Sandeep Kumar Vs. State of Punjab, 2019(4) RCR (Criminal) 741***, recovery of the contraband would remain debatable. He further urges that sub-clause (viia) of Section 2 of NDPS Act defines the term “commercial quantity” in relation to narcotic drugs and psychotropic substances, means any quantity greater than the quantity specified by the Central Government by Notification in the Official Gazette. He further urges that in terms of Serial No.238 (ZH) of the Table attached to the NDPS Act when read in consonance with sub-clause (viia) of Section 2 of NDPS Act, 'Tramadol Hydrochloride' weighing upto 250 grams is to be termed as “non-commercial quantity” and as such alleged contraband is to be categorized as of “non-commercial quantity”. He further submits that co-accused Arashdeep Kaur @ Arash has already been extended concession of regular bail by this Court, vide order dated 05.11.2020 passed in

CRM-M-8460-2020, whereas co-accused namely Kuldeep Singh and Gurmeet Singh have already been extended concession of pre-arrest bail by this Court, vide orders dated 23.11.2021 passed in CRM-M-55334-2019 and CRM-M-2123-2020 respectively. He further submits that petitioner is languishing in custody since 16.11.2019 and he is no more required by the Police for any investigation purpose as after completion of investigation, final report under Section 173 Cr.P.C. (*Challan*) has already been presented in Court and trial has commenced. He further urges that since trial of the case would take sufficient time to conclude, no useful purpose would be served by keeping the petitioner in custody further and he may be released on bail.

On the other hand, learned State counsel while opposing instant petition has vehemently argued that keeping in view seriousness of offence, petitioner does not deserve the concession of bail.

I have heard learned counsel for the parties and have carefully gone through the contents of petition as well as reply furnished at the instance of respondent-State.

At this stage, without commenting anything on the merits of the case lest it may prejudice the outcome of the trial but taking into consideration the fact that petitioner is in custody since 16.11.2019; that petitioner is no more required by the Investigating Agency for investigation purpose; that *Challan* has already been presented in Court and since trial of the case would take sufficient time to conclude, no useful purpose would be served by detaining the petitioner in custody further, thus, he deserves the concession of bail.

In view of above, instant petition for grant of regular bail moved by petitioner-**Rajesh Kumar @ Pillu** is allowed and he is ordered to be released on bail on his furnishing personal bond and surety bond to the satisfaction of Trial Court/ Chief Judicial Magistrate/Duty Magistrate, Ludhiana, as the case may be.

(LALIT BATRA)
JUDGE

24.05.2022

Varinder Prashad

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No