

**CRM-M-14240-2022**

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

**CRM-M-14240-2022.  
Decided on: August 5, 2022.**

**Sukhwinder Singh**

**.. Petitioner**

**VERSUS**

**State of Punjab**

**.. Respondent**

**CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ**

**PRESENT Mr. P.K.S.Phoolka, Advocate,  
for the petitioner.**

**Ms. Amarjit Kaur Khurana, DAG, Punjab.**

**VINOD S. BHARDWAJ, J. (ORAL)**

The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner in case FIR No.77 dated 21.11.2021, registered under Sections 22, 61, 85, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station GRP Sangrur, District Sangrur.

2 The case in hand was registered on the statement of police official who had effected recovery of 58 intoxicant vials of Chlorpheniramine Maleate & Codeine Phosphate.

3. Learned counsel for the petitioner contends that after

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registration of the above said FIR, co-accused namely Lovepreet Singh from whose conscious possession the recovery in question had been effected named one Kapil Kumar Jain as the person from whom he had obtained the contraband. The said named person Kapil Jain was arrested and was granted concession of regular bail vide order dated 17.02.2022 passed in CRM-M-53083-2021. He further contends that the said co-accused namely Lovepreet Singh, thereafter made a disclosure after two months and 10 days of registration of the FIR that he had borrowed the money from the petitioner for purchase of the contraband from Kapil Kumar Jain. Accordingly, the present petitioner was named as an accused and taken in custody. He further contends that no recovery of any nature was effected from the petitioner or on his disclosure and that he has already undergone actual custody for a period of 6 months and 24 days. The charge has been framed, however, no evidence has been recorded so far even though 33 witnesses have been cited by the prosecution to prove its case.

4 Per contra, learned counsel appearing on behalf of the State contends that the petitioner has criminal antecedents and that he is involved in two other cases. She, however, does not dispute that no recovery was effected from the petitioner and that name of the petitioner figured in the disclosure statement made by Lovepreet Singh from whom the recovery had been effected. It is also not denied that no evidence has been recorded so far in the aforesaid case even though 33 prosecution witnesses have been cited by the investigating agency.

5 Controverting the aforesaid submissions, learned counsel appearing on behalf of the petitioner contends that out of the other two

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FIRs, the petitioner had already been acquitted in FIR No.22 dated 03.03.2011, under Sections 452, 448, 511, 148 and 149 IPC, vide judgment passed by the learned Judicial Magistrate First Class, Bathinda, on 14.02.2019 and the petitioner is on bail in FIR No.84 dated 8.12.2015 after custody period of 1 month and 19 days. He submits that it is undisputed that no recovery has been effected from the petitioner and there is no evidence to link the petitioner with the commission of the offence. However, the culpability of the offence shall be determined at the stage of trial and that his continued custodial detention is not likely to advance any interest of justice.

6 Taking into consideration the submissions noticed above, the period of custody, the role attributed to the petitioner, the concession of bail already having been extended to co-accused Kapil Kumar Jain and also the stage of trial, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bond/surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned.

7 It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

8 The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

**August 5, 2022.**  
**raj arora**

**(VINOD S. BHARDWAJ)**  
**JUDGE**

Whether speaking / reasoned  
Whether reportable

Yes / No  
Yes / No