

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

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**CRM-M-17151-2022 (O&M)
Date of decision: 02.05.2022**

RAKESH KUMAR

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

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

Present : Mr. Ashok Giri, Advocate
for the petitioner.

Mr. Karanbir Singh, AAG Punjab.

VINOD S. BHARDWAJ. J. (ORAL)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.170 dated 22.12.2020 for offences under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 29 NDPS Act, 1985 added later on) registered at Police Station Special Task Force, District STF Wingh, Phase- IV Mohali.

Learned counsel for the petitioner *inter alia* contends that the FIR in the instant case has been registered at the instance of the STF and on the basis of a secret information received through a Whatsapp call that Ramesh Kumar @ Billa has a medical shop by the name of Gagan Medical at Raho Road, Mohalla Atal Nagar and that the said accused indulges in the supply of intoxicating tablets from his medical shop. It is further submitted that the sale of the intoxicant tablets is carried out without issuance of the bills and that in the event a raid is conducted

at his shop, heavy cache of intoxicant tablets can be recovered from his shop. Based upon the said secret information, the co-accused Ramesh Kumar @ Billa was apprehended by the Police and from his medical shop 1200 tablets of Tramadol Hydrochloride was recovered, which is a commercial quantity weighing 402 grams as against the non-commercial limit of 250 grams.

Learned counsel further submits that the petitioner was nominated as an accused on the basis of a disclosure statement made by Ramesh Kumar @ Billa. It is submitted that the petitioner was taken in custody on 15.11.2021. However, there was no recovery effected from the petitioner. He further submits that the co-accused Ramesh Kumar @ Billa was granted the concession of regular bail on 01.12.2021. It is thus contended that once the main accused from whose conscious possession the recovery had been effected, has already been granted the concession of bail, there is no justification for continued custodial detention of the petitioner

Learned State counsel does not dispute the aforesaid fact. It is however pointed out that there is yet another case that was registered against the petitioner. He does not dispute the fact that the investigation in the case is complete and that charge is yet to be framed.

On a pointed query put to the learned State counsel as to whether any recovery was effected in the other case registered against the petitioner, learned State counsel leads ignorance, however, the counsel for the petitioner points out that even in the said case the petitioner was nominated as an accused on the basis of disclosure statement and no recovery had been effected from the petitioner.

I have heard learned counsel for the parties and have perused the material on record.

Taking into consideration the custody as also the stage of trial

coupled with the fact that main accused Ramesh Kumar @ Billa, from whose conscious possession the incriminating material/contraband was recovered, has already been granted the concession of bail, I deem it appropriate to enlarge the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted to regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of Trial Court/Duty Magistrate, concerned.

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.

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.

(VINOD S. BHARDWAJ)
JUDGE

May 02, 2022

S.Sharma(syr)

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No