

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

**CRM-M-18148-2022
Date of decision: 09.05.2022**

Happy

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. J. S. Sandhu, Advocate
for the petitioner.

Mr. A. A. Pathak, Addl. A.G., Punjab

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 160 dated 03.09.2020, registered under Sections 22 and 29 of the Narcotic Drugs & Psychotropic Substances Act, 1985 at Police Station Bathinda Kotwali, District Bathinda.

At the very outset, learned counsel for the petitioner relies upon order dated 04.03.2022 passed in CRM-M-47922-2021, vide which co-accused Ankush Arora has already been granted the concession of regular bail by this Court. The operative part of the order reads as under:

“Learned senior counsel for the petitioner submits that as per allegations in the FIR, ASI Gurvinder Singh, while on patrol duty, stopped two persons, who were riding a scooter, on apprehension of them carrying some narcotric substance. On inquiry, one person told his name as 'Happy' and the other person disclosed his name as

'Ankush Arora', i.e. the petitioner. It is further stated in the FIR that strips of the tablets were visible as the mouth of the bag, which was in possession of aforesaid two persons, was open. Thereafter, a *ruqa* was sent to the police station that the ASI Gurvinder Singh, being the local rank officer, was not able to conduct the investigation and SI Gurinder Singh was deputed to conduct the further investigation.

Learned senior counsel has argued that despite the fact that the second investigating officer had an information regarding possession of some intoxicant tablets, while conducting the search, no notice under Section 50 of the NDPS Act was given and, therefore, it will be a matter of trial whether the investigation was carried out in a proper manner or not.

It is further submitted that the petitioner is in judicial custody for the last 01 year, 05 months and 26 days; he is a first offender and is not involved in any other case.

Learned senior counsel further submits that the charges were framed on 05.03.2021, however, till date no prosecution witness has been examined.

In reply, learned State counsel submits that the recovery effected from both the aforesaid accused persons was of 13000 tablets of Clovidol and 13140 tablets of Alprazolam, which falls under the commercial quantity, however, on the basis of the custody certificate filed today in Court, it is not disputed that petitioner is not involved in any other case; he is in judicial custody for the last more than 01 year and 05 months and no prosecution witness has been examined so far. ”

For the sake of brevity, the facts are not reproduced again.

Learned counsel for the petitioner further submits that

petitioner Happy was one of the two persons along with co-accused Ankush Arora, who were apprehended by the police.

Learned counsel for the petitioner further submits that as on today, the petitioner is in judicial custody for the last 01 year, 08 months and 01 day and he is not involved in any other case.

Learned State counsel has filed the custody certificate and has not disputed the factual position. As per custody certificate, the petitioner is in judicial custody for the last 01 year, 08 months and 01 day and he is not involved in any other case.

After hearing learned counsel for the parties, without commenting upon the merits of the case, considering the fact that the petitioner is in judicial custody for the last 01 year, 08 months and 01 day; he is not involved in any other case; his co-accused has already been granted the concession of regular bail as noticed above and also in view of the fact that the conclusion of trial is likely to take some time, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

09.05.2022
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No