

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

CRM-M-21868-2021 (O&M)

Date of decision : 25.05.2022

Pradeep Kumar @ Kaku

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. P.K.S. Phoolka, Advocate for the petitioner.

Ms. Ishneet Kaur, AAG Punjab.

ALKA SARIN, J. (ORAL)

This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.0207 dated 11.08.2020 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'NDPS Act') registered at Police Station Gidderbaha, District Sri Muktsar Sahib.

First petition being CRM-M-39088-2020 was dismissed as withdrawn on 18.01.2020.

Learned counsel for the petitioner would contend that the petitioner has falsely been implicated in the present case on account of some local party-faction in the village and that the present petitioner and the co-accused, namely, Parveen Kumar, were travelling in a car which was being driven by the co-accused and they were stopped by the Police on

patrol duty and the driver of the car i.e. co-accused was given a notice that he was carrying some intoxicant substance. Thereafter, a *ruqa* was sent and in the presence of a Gazetted Officer, a total of 110 bottles of Wincorex/100 ML and 670 intoxicant tablets of Carisoma (tramadol) were recovered from the car in which the present petitioner and the co-accused were travelling. Learned counsel for the petitioner has contended that the petitioner is a first time offender and that the identically situated co-accused, namely, Parveen Kumar, has since been granted bail by this Court vide order dated 01.04.2022 in CRM-M-12273-2021. Learned counsel for the petitioner has further contended that the petitioner has been in custody since 11.08.2020 and despite the charges having been framed on 25.02.2021, only 3 out of 18 prosecution witnesses have been examined.

Learned counsel for the State is not in a position to deny that the petitioner has been in custody since 11.08.2020 and the identically situated co-accused, namely, Parveen Kumar, has since been granted bail by this Court vide order dated 01.04.2022 in CRM-M-12273-2021. She is also not in a position to deny that despite the charges having been framed on 25.02.2021, only 3 out of 18 prosecution witnesses have been examined and that there is no other case pending against the petitioner.

Heard.

In the present case, the petitioner has been in custody since 11.08.2020. Similarly situated co-accused, namely, Parveen Kumar, has since been granted bail by this Court vide order dated 01.04.2022 in CRM-M-12273-2021. There is no other case pending against the petitioner. The trial is progressing at a slow pace inasmuch as out of 18 prosecution

witnesses, only 3 witnesses have been examined despite the charges having been framed on 25.02.2021. The petitioner on the ground of parity would also be entitled to the concession of regular bail.

In view of the above-mentioned circumstances, detention of the petitioner would not serve any useful purpose. Without commenting upon the merits of the case, I deem this to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off. Pending applications, if any, also stand disposed off.

25.05.2022
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO