

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

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**CRM-M-28982 of 2021 (O&M)
Date of decision : 25.02.2022**

Ritik

.....Petitioner

VERSUS

State of Haryana

.....Respondent

CRM-M-30349 of 2021

Mukesh Kumar

.....Petitioner

VERSUS

State of Haryana

.....Respondent

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

Present:- Mr. S. S. Nain, Advocate
for the petitioner (in CRM-M-28982 of 2021)

Mr. R. N. Lohan, Advocate,
for the petitioner (in CRM-M-30349 of 2021)

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

VINOD S. BHARDWAJ, J. (Oral)

The case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

By means of a common order, regular bail petitions filed by the petitioners i.e. Ritik and Mukesh Kumar, are being disposed of. Both the petitioners are seeking concession of regular bail in case FIR No.214 dated 28.08.2020 under Sections 22 (c), 27-A and 29 of NDPS Act, 1985, registered at Police Station Cheeka, District Kaithal (Haryana).

petitioner-Mukesh Kumar, *inter alia* submits that as per case of the prosecution, the vehicle in question was intercepted which such vehicle was being driven by co-accused Ritik and the petitioner-Mukesh Kumar was alleged to be the pillion rider. It is stated that on seeing the police party, the accused started to go back as a result thereof, the vehicle was imbalanced and 4 strips of tablets fell down on the road. The raiding party picked up the strips of tablets on the road which were Clovidol-100 SR. Each strip contained 50 tablets. There were further 86 strips of Clovidol-100 SR, each strip containing 50 tablets recovered from the black ploythene. Resultantly, a total recovery of 4500 Clovidol-100 SR tablets was effected. In addition thereto, 3 strips of Lorazepam 2mg were found in the polythene of the black colour containing 120 tablets in each strip. Learned counsel further contends that a perusal of the FIR also shows that the Drug Control Officer/Drug Inspector was called upon to verify the same and it was informed by the Drug Control Officer that the recovered tablets are banned under the provisions of NDPS Act and he stated to submit his report in the Court at the time when the accused and the tablets will be presented in the Court since he was out of station.

Learned counsel for the petitioner also refers to the proceedings held on 28.08.2020 in the Court of Sub-Divisional Judicial Magistrate, Guhla wherein it is stated that as per the report of the Drug Inspector, attached with the remand paper, the total weight of the case property was 1863 Grams Clovidol-100 SR tablets and the total weight of Lorazepam 2Mg tablets is stated to be 22.8 Grams. Learned counsel contends that the report of the Drug Inspector could not have come along

with the remand papers as the Drug Inspector was not available in the city and had gone to Rohtak. Resultantly, there was no occasion for the Drug Control Officer to make any report and that the seizure was seen for the first time by the Drug Control Officer in the Court itself. It is further contended by learned counsel that a perusal of the said order of the Sub-Divisional Judicial Magistrate, Guhla also reveals that when the case property was unsealed and opened the strips contained 10 tablets/capsules each which runs contrary to the recording made by the police at the time of seizure of the property. As per version of the police there were 50 tablets in each strip. Learned counsel contends that the case property has thus been tempered with or has been substituted. It is also argued that other co-accused of the petitioner was granted the concession of regular bail by this Court vide order dated 07.10.2020 passed in CRM-M-30893 of 2020 in the matter of Sunil Kumar @ Suraj Vs. State of Haryana; order dated 28.06.2021 passed in CRM-M-37879 of 2020 in the matter of Bunt Ram Vs. State of Haryana ; order dated 28.06.2021 in CRM-M-40577 of 2020 in the matter of Gaurav Kumar Vs. State of Haryana and yet another order dated 28.06.2021 passed in CRM-M-36084 of 2020 in the matter of Anil Kumar @ Vakil Vs. State of Haryana. Learned counsel further contends that petitioners are in custody since 28.08.2020 and out of 20 witnesses named in the FIR, only 1 witness has been examined so far and remaining witnesses are yet to be examined. He further places reliance upon the judgment of this Court in the matter of ***Hakam Singh and others Vs. State of Punjab 2021 (3) R.C.R. (Criminal) 376*** wherein concession of regular bail was extended to an accused in a case of

recovery of 29000 tablets of Clovidol 100 SR and also an order dated 01.12.2020 passed in CRM-M-38055 of 2020 in the matter of ***Sukhjinder Singh @ Sukhi Vs. State of Punjab***, wherein, the concession of regular bail was granted to the accused from whom 5000 tablets of Colvidol SR tablets had been recovered. It is also submitted that the recovered quantity is not commercial and the said stands accepted by the respondent in the reply filed to the petition for bail. It is further argued that there is no other case is pending against the petitioners.

Learned State counsel opposes the grant of bail by submitting that a huge quantity of tablets had been recovered from possession of the petitioners. It is further submitted that the petitioners could not give any valid explanation as to why they were in possession of huge quantity of tablets which were prohibited and fell under the NDPS Act. Learned counsel however could not dispute the fact that the petitioners are in custody since 28.08.2020 and that only one witness has been examined so far. He also could not dispute the fact that 4 other co-accused of the petitioners in the case have also been enlarged on bail and that they are not involved in any other case under the NDPS Act.

Having considered the submissions made by the learned counsel for the petitioner and having considered the period of custody as well as the stage of trial and also the fact that co-accused of the petitioners have already been granted bail, I deem it fit and appropriate to enlarge the petitioners i.e. Ritik and Mukesh Kumar on bail to the satisfaction of the trial Court.

The petitioners i.e. Ritik and Mukesh Kumar are ordered to

be released on bail on their furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Panipat.

Disposed of accordingly.

A copy of this order be placed on the file of connected matter.

25.02.2022
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(VINOD S. BHARDWAJ)
JUDGE

<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>