

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-27384-2022
Date of decision : 11.07.2022

Ashu Kashav

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Ankit Kharbanda, Advocate
for the petitioner.

Mr.Dhruv Dayal, Sr. DAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.0017 dated 11.03.2022 registered under Sections 22, 27-A, 29, 61 and 85 of the Narcotic Drugs and Psychotropic Substances, Act, 1985 (in short “NDPS Act”) at Police Station Verka, District Amritsar.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 11.03.2022 and the challan in the present case has already been presented and there are 11 prosecution witnesses and none of them have been examined, thus, the trial is likely to take time. It is further submitted that the petitioner is not involved in any other case and the alleged recovery in the present case is of 202.68 grams of Tramadol Hydrochloride and the same is non-commercial quantity as the commercial quantity starts from 250 grams. It is also submitted that in the

present case, the alleged recovery has been effected from the trunk of the Aactiva whereas the petitioner is neither the owner of the said Aactiva, nor the petitioner was driving the said Aactiva and the petitioner was the pillion rider.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and, on instructions from ASI Baldev Singh, has submitted that the petitioner was the pillion rider and he, along with Balwinder Singh @ Pamma (driver) was riding on the Aactiva when they were intercepted and both the said persons were apprehended at the spot and as per settled law, the recovery of the contraband would be deemed to have been effected from both the accused persons.

This Court has heard learned counsel for the parties and has perused the paper book.

The petitioner has been in custody since 11.03.2022 and the challan in the present case has already been presented and there are 11 prosecution witnesses and none of them have been examined, thus, the trial is likely to take time. The petitioner is stated to be not involved in any other case and the recovery effected in the present case is of non-commercial quantity. The recovery has been effected from the trunk of Aactiva which is neither in ownership of the petitioner, nor was being driven by the petitioner. The question as to whether the petitioner can be stated to be in conscious possession of the above said contraband, would be a matter of debate, which would be finally adjudicated during the course of the trial.

Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned

trial Court/ Duty Magistrate and subject to him not being required in any other case.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

July 11, 2022
Davinder Kumar

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