

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.30967 of 2021 (O&M)
Date of Decision: 25.08.2022.

Manjeet Singh

... Petitioner

Vs.

State of Punjab

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Armaan Gagneja, Advocate
for the petitioner.

Mr. S.S. Goripuria, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this 2nd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.357 dated 19.10.2020, for offence punishable under Sections 22 (C) of Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS') registered at Police Station City, Muktsar, District Sri Muktsar Sahib. The earlier one was dismissed as withdrawn.

The counsel for the petitioner submits that one of the co-accused, namely-Sandeep Kumar has already been granted concession of regular bail vide order dated 24.03.2021 passed in CRM-M-3117 of 2021.

Brief facts of the case are that the FIR was registered at the instance of complainant-ASI Dilbag Singh that while on patrol duty, he along with his co-officials noticed a young boy holding a polythene bag in his right hand. On seeing the police party he dropped the polythene bag and started running back. However, he was apprehended by the police party.

From the polythene bag, the intoxicant tablets were scattered on the ground and the same were collected.

Thereafter, a notice under Section 50 of the NDPS Act was given, offering a charge to search by a Magistrate a Gazetted Officer but the petitioner opted that he do not want to be searched before a Gazetted Officer and repose faith in the Investigating Officer and thereafter, the recovery of Rs.800/- tablets of Tramadol Hydrochloride Tablets were effected. Thereafter, the further investigation was conducted, recovery memo was prepared.

The learned counsel for the petitioner submits that from the perusal of the FIR it was revealed that the complainant is the Investigating Officer as it is stated that after giving an option to the petitioner under Section 50 of the NDPS Act, when the petitioner repose the confidence, the same IO continued with the investigation without calling the second Investigating Officer.

The learned counsel further submits that it has come in the earlier part of the FIR that when the petitioner was apprehended and scattered tablets were collected from the ground and after collecting the intoxicant tablets, no notice was sent at that stage to the police station and rather the FIR itself suggest that after completing the entire investigation and the recovery memos were prepared regarding the seal of the intoxicant. Therefore, it is a matter of trial whether Section 42 and 50 of the NDPS Act has been complied with or not. Learned counsel further submits that petitioner is in custody from the last 01 year 10 months and 06 days and out of 17 prosecution witnesses, only one PW has been examined and it will take long time in conclusion of the trial.

Counsel for the State, on instructions from ASI Gurbag Singh has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 01 year 10 months and 06 days; the petitioner is not involved in any other case of similar nature; the custodial interrogation of the petitioner is not required; only one PW has been examined so far and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate. However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

25.08.2022
rekha sharma

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No