

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-32414-2021(O&M)

Date of decision : 27.07.2022

Prince Arora @ Prince Maglani

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr. Dinesh Nagar, Advocate
for the petitioner.

Mr. Sarabjit Singh Cheema, AAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.14 dated 27.02.2021 registered under Sections 21 and 22 of the Narcotic Drugs and Psychotropic Substances, Act, 1985 (in short "NDPS Act") at Police Station Aur, District SBS Nagar (Nawanshahr).

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 27.02.2021 and the challan has already been presented and there are 10 prosecution witnesses, out of which, one witness has been examined and, thus, the trial is likely to take time and the petitioner is not involved in any other case. It is argued that although on the date when the FIR was registered, i.e., 27.02.2021 it was mentioned in the FIR that the recovery from the petitioner included intoxicating injection containing Buprenorphine, each injection containing 2 ml of the said

is further argued that as far as the recovery of heroin is concerned, the same was only 4 grams, which is a small quantity. It is submitted that as per FSL report dated 20.08.2011, it has been found that the ingredient/ intoxicant substance present was not Buprenorphine but is Tramadol Hydrochloride and the commercial quantity stipulated for Tramadol Hydrochloride starts from 250 grams and thus, the alleged recovery effected from the present petitioner would fall under the ambit of non-commercial quantity.

Learned State counsel, on the other hand, has opposed the present petition for regular bail but however has not disputed the aforesaid facts stated by learned counsel for the petitioner.

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

In the present case, the petitioner has been in custody since 27.02.2021 and the challan has already been presented and there are 10 prosecution witnesses, out of which, one witness has been examined and, thus, the trial is likely to take time and the petitioner is stated to be not involved in any other case. As per the FSL report dated 20.08.2021, recovery effected is of Tramadol Hydrochloride and not Buprenorphine, as had been mentioned in the FIR and the recovery from the petitioner is of non-commercial quantity inasmuch as the commercial quantity stipulated for Tramadol Hydrochloride starts from 250 grams and even the recovery of heroin effected is only 4 grams, which is lesser than small quantity, thus, the bar under Section 37 of the NDPS Act would not apply.

Keeping in view the abovesaid 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.

Pending miscellaneous application, if any, stands disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

July 27, 2022
Davinder Kumar

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