

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

CRM-M-30657-2022 (O&M)
Decided on : 01.08.2022

Shamin Ahmed @ Shamim Ahmed

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Prateek Pandit, Advocate
for the petitioner.

Ms. Maloo Chahal, DAG, Punjab with
SI Onkar Singh,

Manjari Nehru Kaul, J.(Oral)

CRM-24412-2022

Application is allowed as prayed for and Annexure P-11 is taken on record subject to all just exceptions.

Main case

This is the third petition filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.157 dated 21.09.2019 under Sections 21, 22, 26 and 29 of NDPS Act and Sections 420, 467, 468, 471 IPC registered at Police Station City Gurdaspur District Gurdaspur.

Learned counsel for the petitioner submits that subsequent to the dismissal of previous petition on 17.02.2021 (Annexure P-9), charges have been framed and two witnesses including the investigating officer stand examined.

Learned counsel while drawing the attention of this Court to the FIR in question (Annexure P-1) submits that it was a case of chance

recovery wherein co-accused Saurabh Abrol and Navdeep Singh were allegedly intercepted and recovery of 50,000 loose tablets (5 strips containing total 300 intoxicant tablets of ALPAM-05 and 40 strips containing total 400 intoxicant tables of Tramadol Hydrochloride) was effected from them. Thereafter during investigation, both the co-accused suffered a disclosure statement that they had been procuring the contraband from Kamaljit Kumar. On interrogation of Kamaljit Kumar, he further suffered a disclosure statement and nominated Rahul and Parmod Rana @ Pritam by stating that the contraband had been procured from them. They both in turn further nominated one Saurav Garg, who, still further nominated Manish Sharma, a chemist, as the person, who had provided the contraband in question. Learned counsel submits that the name and alleged role of the petitioner, who was an employee of Manish Sharma, came to the fore on the statement made by said Manish Sharma. Learned counsel submits that it was evidently a case of false implication and the investigating agency had very conveniently exonerated the petitioner's employer, Manish Sharma by showing him to be hospitalized and that too in his father's hospital and thus, being innocent. Learned counsel while inviting the attention of this Court to Annexure P-6, which is some medical prescription/report of the doctor, submits that on the face of it, it was a fabricated document wherein the following report had been given qua Manish Sharma **“Hi Sofrig form Juondi's Dibitig Hipatunson compilit Bid rest to wiek bat his for tetment.”** Learned counsel submits that a perusal of it leaves no manner of doubt about the investigating agency having definitely colluded with Manish Sharma and instead implicated the

present petitioner, who as already submitted was working in his chemist shop and thereafter showed a false recovery of 1500 injections from him. He submits that the petitioner has clean antecedents inasmuch as he is not involved in any other criminal case much less under the NDPS case. He also submits that the material and evidence on the basis of which, he is now being sought to be implicated in the case in hand, admittedly has very weak evidentiary value and as he has been in custody since 04.12.2019, he be extended the concession of bail as the trial will take considerable time to conclude.

Per contra, learned State counsel while opposing the prayer made by the counsel opposite, has not been able to controvert the factual aspect of the submissions made by counsel opposite that the petitioner was nominated as an accused on the statement of Manish Sharma, who as per the investigating officer was hospitalized when they went to apprehend him and who had indeed been declared innocent by the investigating agency. She has also not been able to dispute that Annexure P-6 was the medical prescription of Manish Sharma. However, she on instructions has controverted the submissions made by the counsel opposite that the hospital where said Manish Sharma was admitted was being run by his father. She has also not been able to dispute that there had been a chain of disclosure statements made after the initial recovery of 50,000 loose tablets from co-accused Saurabh Abrol and Navdeep Singh on 21.09.2019. Still further, she has not controverted the submissions of the counsel opposite qua the petitioner being not involved in any other criminal case much less under the NDPS Act.

Heard learned counsel for the parties and perused the relevant material on record.

In the facts and circumstances as enumerated hereinabove particularly in the light of the petitioner having been nominated as an accused on the statement of Manish Sharma, who was named in disclosure statements of co-accused and no other criminal case registered against him, this Court deems it fit to extend the concession of bail to the petitioner. The petitioner has been in custody since 04.12.2019 and 23 prosecution witnesses are yet to be examined, hence, the trial would take considerable time to conclude. Accordingly, the present petition is allowed. The petitioner be admitted to bail to the satisfaction to the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

01.08.2022
sonia

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No