

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

210

CRM-M-36099-2021

Date of Decision: 09.05.2022

BEERU SINGH @ BEERU

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

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

Present: Mr. Hitesh Ghai, Advocate
for the petitioner.

Ms. A.K. Khurana, DAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.0118, dated 18.06.2021 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sadar Khanna, Ludhiana.

Learned counsel appearing of the petitioner *inter alia* contends that the petitioner has been falsely implicated in the aforesaid case and that he suffers locomotive disability to the extent of 30%. Reliance in this regard has been placed on the disability certificate issued by the Medical Authority, Ludhiana and appended alongwith the present petition as Annexure P-2. It is contended that as per the case of the prosecution, the petitioner is stated to be seen coming from the side of village Kaura at about 10.00 p.m. and was holding a polythene of white colour in his hands. On seeing the police party, the petitioner is stated to have taken left turn and pretended to urinate, where he threw that polythene. On getting suspicious,

the petitioner was apprehended and upon search, the recovery of contraband was effected and a total of 810 intoxicant tablets containing tramadol hydrochloride with an average of 40 mg. per tablet were recovered. The total weight thus came out to 324.81 grams and the same is alleged to be the commercial quantity. He submits that the recovery in question was not effected from the person of the petitioner and that the petitioner was also not carrying the polythene when he was apprehended. As per the case of prosecution, the said polythene had already been thrown. There is nothing to suggest that the petitioner was in conscious possession of the said polythene. He further points out that the petitioner is in custody since 21.06.2021 and thus he has already undergone an actual custody of 7 months and 28 days. He further points out that the petitioner was granted the concession of interim bail for the medical emergency by this Court vide order dated 08.02.2022 and that he has surrendered before the Duty Magistrate on 07.05.2022 in terms of the said order. The petitioner has thus not misused the concession so granted to him and that he is not a previous convict and has no criminal antecedents or any other case pending against him. Learned counsel also submits that the trial is still at initial stage and even though the final report in the instant case was filed on 16.09.2021, however, the charge was framed on 09.11.2022 and the case is now fixed for 30.01.2023 for recording of prosecution evidence.

Ms. A.K. Khurana, DAG, Punjab has submitted that commercial quantity of contraband was recovered by the police in the present case and the allegation against the petitioner is of being in conscious possession thereof. She, however, could not dispute the fact that no

prosecution witness has been examined so far and that the petitioner does not have any criminal antecedents. It is also not disputed by her that the petitioner has already undergone an actual custody of 07 months and 28 days and that the concession of interim bail granted to the petitioner vide order dated 08.02.2022 has not been misused by him and that he surrendered before the Duty Magistrate in terms of the order so passed. Thus, there is no apprehension of the petitioner absconding in the event of granting concession of bail to him. Therefore, I deem it appropriate to allow the instant petition.

Accordingly, the present petition is allowed and the petitioner is admitted to regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of Trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witness in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of available material.

09.05.2022
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No