

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

216

CRM-M-40021 of 2021 (O&M)

DECIDED ON:11<sup>th</sup> May, 2022

Sahib Singh

....PETITIONER

VERSUS

State of Punjab

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Raghav Goyal, Advocate for  
Mr. Parvesh Sachdeva, Advocate for petitioner.

Mr. Amit Mehta, Sr. DAG Punjab.

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AVNEESH JHINGAN, J (ORAL)

This petition is filed seeking regular bail in case of FIR No. 78 dated 19.5.2021, under Sections 22/61 of NDPS Act, 1985, registered at Police Station Kabarwala, District Sri Muktsar Sahib, Punjab.

Learned counsel for the petitioner seeks parity with co-accused Sandeep Kumar, who was granted regular bail by this Court on 16.12.2021 by passing the following order:

*"Present petition under Section 439 Cr.P.C has been moved by petitioner-Sandeep Kumar for grant of regular bail in case FIR No.78 dated 19.05.2021 under Section 22 of NDPS Act, registered at Police Station Kabarwala, District Sri Muktsar Sahib.*

*Learned counsel for the petitioner inter alia contends that version, as alleged in the FIR, is totally concocted one and there is no iota of truth therein. He further submits that allegedly contraband (700 tablets of Tramadol Hydrochloride) weighing 238.7 grams was recovered from the conscious possession of petitioner. He further urges that allegedly during personal search of co-accused Sahib Singh, contraband (700 tablets of Tramadol Hydrochloride) weighing 238.7 grams was recovered. He further urges that in view of ratio laid down in **Amar Singh Ramjibhai Barot Vs.***

*State of Gujarat, (2005) AIR (SC) 4248, recovery has to be treated as individual recovery because the same was effected in personal search of petitioner. He further urges that even otherwise alleged recovery of contraband (700 tablets of Tramadol Hydrochloride weighing 238.7 grams) is 'non-commercial quantity'. He further submits that petitioner is languishing in custody since 19.05.2021 and he is no more required by the Police for any investigation purpose as after completion of investigation, final report under Section 173 Cr.P.C. (Challan) has already been presented in Court on 09.07.2021 and trial has commenced. He further urges that since trial of the case would take sufficient time to conclude, no useful purpose would be served by keeping the petitioner in custody further and he may be released on bail.*

*On the other hand, learned State counsel while opposing instant petition has vehemently argued that keeping in view seriousness of offence, petitioner does not deserve the concession of bail.*

*I have heard learned counsel for the parties and have carefully gone through the contents of petition.*

*At this stage, without commenting anything on the merits of the case lest it may prejudice the outcome of the trial but taking into consideration the fact that petitioner is in custody since 19.05.2021; that petitioner is no more required by the Investigating Agency for investigation purpose; that Challan has already been presented in Court and since trial of the case would take sufficient time to conclude, no useful purpose would be served by detaining the petitioner in custody further, thus, he deserves the concession of bail.*

*In view of above, instant petition for grant of regular bail moved by petitioner-**Sandeep Kumar** is allowed and he is ordered to be released on bail on his furnishing personal/surety bonds to the satisfaction of Trial Court/ Chief Judicial Magistrate/Duty Magistrate, Sri Muktsar Sahib, as the case may be."*

Learned State counsel on instructions is not in a position to distinguish the case of the petitioner viz-a-viz co-accused Sandeep Kumar so far as grant of bail is concerned.

The petitioner is in custody since 19.5.2021, conclusion of trial is likely to take time, on the basis of parity with co-accused, the petitioner is granted bail on furnishing surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

The petition is allowed.

It is clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

11<sup>th</sup> May, 2022

*reema*

(AVNEESH JHINGAN)  
JUDGE

|                                  |            |
|----------------------------------|------------|
| <i>Whether speaking/reasoned</i> | <i>Yes</i> |
| <i>Whether reportable</i>        | <i>No</i>  |