

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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**CRM-M-35824-2022 (O&M)
Date of decision: 27.10.2022**

PUSHPENDER

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sandeep Siwach, Advocate
for the petitioner.

Mr. Gaurav Bansal, AAG Haryana.

AMAN CHAUDHARY. J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No.249 dated 03.04.2022, under Sections 22(c) of the NDPS Act, registered at Police Station Sector 58, District Faridabad.

Learned counsel contends that the alleged recovery from the petitioner is of 10 injections (2ml each) of Buprenorphine and has been in custody since 03.04.2022. He relies on Section 42 of the Narcotic Drugs and Psychotropic Substances Act, 1985 to show that it is a false case against the petitioner inasmuch as the alleged notice is dated 02.04.2022, whereas the incident occurred on 03.04.2022 and the FIR was registered on 03.04.2022. He further submits that the petitioner is not involved in any other case. Out of 15 witnesses none has been examined. Learned counsel further submits that there is delay of 08 days in sending the sample, which is in violation of the standing order 1/89 issued by the Department of Revenue, Ministry of Finance, Government of

India, wherein it has been stated that the sample has to be sent as soon as possible from the time of recovery.

Contrarily, learned State counsel submits that commercial quantity has been recovered from the petitioner, however, he is unable to controvert that the petitioner is in custody since 03.04.2022 and that he is not involved in any other case and that none of the witnesses have been examined as the charge has been framed on 26.09.2022.

I have heard learned counsel for the parties.

While considering the facts and circumstances of the case particularly that the petitioner is in custody since 03.04.2022; petitioner is not involved in any other case; though charges have been framed but none of the witnesses have been examined; the trial would take considerable time, thus his further detention behind bars would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to him not being required in any other case. The petitioner shall abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize/ intimidate the prosecution witnesses.
3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
4. The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.

- 6. The petitioner shall not in any manner misuse his liberty.
- 7. Any infraction shall entail in withdrawal of the benefit granted by this Court.

In view of the above, this Court makes it clear that the observations made herein above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

October 27, 2022
S.Sharma(syr)

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