

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

Sr. No.230

CRM-M-54035-2022

Date of decision : 29.11.2022

Rajinder Kumar @ Kala

.....Petitioner(s)

VERSUS

State of Punjab

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Navjinder Sidhu, Advocate for the petitioner

Mr.Manipal Singh Atwal, DAG, Punjab

AMAN CHAUDHARY, J.

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.0157 dated 02.07.2022 under Section 22-B of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station City Sri Muktsar Sahib, District Muktsar Sahib.

Learned counsel for the petitioner submits that the alleged recovery from the petitioner is of 350 intoxicant tablets of Clobedol-100 SR, which is noncommercial in nature as per the Schedule. He further submits that the mandatory provisions of Sections 42 and 50 of the NDPS Act were not complied with during recovery proceedings. The petitioner has been in custody since 02.07.2022. He further submits that though the charges have been framed but no witness has been examined so far.

Per contra, learned State counsel opposes the bail petition on the ground that total 7000 tablets were recovered from the petitioner as well as his co-accused, taken together is commercial in nature. However, he is unable to controvert the fact that the petitioner is in custody since 02.07.2022 and challan has been presented, though charges have been framed, no witness has been examined and that there is one more case under

the NDPS Act against the petitioner. He further submits that co-accused, namely, Sonu Juneja, has already been granted the concession of regular bail by this Court vide order dated 21.10.2022 passed in CRM-M-47860-2022.

In rebuttal, learned counsel for the petitioner submits that the quantity cannot be considered as commercial inasmuch as individual recovery has to be taken into consideration as per the judgment of **Sami Ullaha Vs. Superintendent, Narcotric Central Bureau, 2009 (1) RCR (Criminal) 40**. He further submits that in other FIR, in which the quantity of contraband was non-commercial, the petitioner is on bail.

Heard.

Keeping in view the facts and circumstances of the case particularly that the petitioner is in custody since 02.07.2022; co-accused, Sonu Juneja has already been released on regular bail; though charges have been framed but out of a total 16 PWs, none has been examined so far, therefore, conclusion of the trial will take a considerable time, his further detention behind the bars would not serve any useful purpose, thus, 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 pressurise/ 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 surrender his passport, if any, and will not leave the country without the permission of the Trial Court.
5. 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.
6. The petitioner shall not directly or indirectly coerce, inducement, 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.
- 7. The petitioner shall not in any manner misuse his liberty.
 - 8. Any infraction shall entail in withdrawal of the benefit granted by this Court.
 - 9. The petitioner will furnish correct mobile number and residential address and shall not change the same without prior intimation to the trial Court.

It is further clarified that if the petitioner does not abide by the aforesaid conditions, the State would be at liberty to seek cancellation of his bail.

Nothing stated hereinabove be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made above, which have only been made for the purpose of adjudicating the present petition for grant of regular bail.

29.11.2022
gsv

(AMAN CHAUDHARY)
JUDGE

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