

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

215

CRM-M-750-2023

Date of Decision: 24.04.2023

GAUTAM YADAV

... Petitioner

VERSUS

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Mr. Monty Goyal, Advocate
for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG Punjab.

DEEPAK MANCHANDA, J.(Oral)

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C. in case FIR No. 0148 dated 12.05.2022, under Sections 22 ,61 and 85 of NDPS Act, 1985 (Section 22-C of NDPS Act added later on) registered at Police Station Sahnewal, District Ludhiana, who is alleged to have possessed contraband of 888 intoxicant tablets.

Learned counsel for the petitioner contends that as per allegations in the FIR, near Garg Factory opposite Kanganwal Road at about 08:40 PM, one cut-surd person was seen coming from G.T. Road, Highway side, who after seeing the police party started walking by taking long steps and tried to turn where he fell down and was carrying transparent polythene bag in his hand out of which some of the boxes were got opened where after checking 888 intoxicant capsules containing salt tramadol hydrochloride with the average weight of capsules is 639 mg/ per capsule were recovered

from the conscious possession of the petitioner.

Learned counsel for the petitioner further contends that the petitioner has been falsely implicated in the present case and the said recovery has been implanted against him. It is further submitted that neither in recovery memo nor in the report of Forensic Science Laboratory, the batch number, manufacturing date and expiry date were mentioned as the sample submitted in this case cannot be said to be the sample recovered from the petitioner. In support of his arguments, he placed reliance on the observations in CRM-M-20339-2021 titled as "*Varinder Kumar @ Sharma Versus State of Punjab*", CRM-M-24414-2018 titled as "*Parminder Singh @ Pindi Versus State of Punjab*", CRM-M-8426-2017 titled as "*Chamkaur Singh Versus State of Punjab*" & CRM-M-906-2020 titled as "*Jorawar Singh Versus State of Punjab*" and apart from present FIR he has clean antecedents. Learned counsel for the petitioner submits that the investigation has been completed, challan stands presented and conclusion of trial will take sufficient time, therefore, the petitioner be enlarged on bail.

On the other hand, learned State counsel assisted by ASI Raghuvir Singh has opposed the aforesaid prayer on the ground that allegations levelled against the petitioner are serious in nature. However, he has not disputed the fact that challan has been presented, charges have been framed and out of total 11 prosecution witnesses, only 02 witnesses have been examined till date. Learned State counsel further submits that the petitioner is not involved in any other case.

I have heard learned counsel for the parties.

Petitioner is in incarceration since 12.05.2022.

It is not a case made out by the respondent-State that in case

concession of bail is granted to the petitioner, he would hamper the course of free and fair trial. When a specific query with regard to batch numbers as per Annexure P-2 FSL, was put to learned State counsel, he also admitted that batch number as well as manufacturing date are missing in the said report and has not disputed the contentions raised by the learned counsel for the petitioner in this regard. Further since, the challan has already been presented, charges have been framed and out of 11 prosecution witnesses only 02 witnesses have been examined till date and trial would take sufficient time, no useful purpose would be served in keeping the petitioner behind bars

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

(DEEPAK MANCHANDA)
JUDGE

April 24, 2023
nisha-II

Whether speaking/reasoned	Yes
Whether Reportable	Yes /No