

204**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-7138-2020 (O&M)
Date of decision : 30.01.2023**

Bagga Singh

...Petitioner(s)

Versus

The State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. B.S. Jattana, Advocate for the petitioner(s).

Mr. Harsh Vardhan Shehrawat, AAG, Haryana,
assisted by ASI Surjeet Singh.**MAHABIR SINGH SINDHU, J.**

Second petition has been filed under Section 439 of the Code of Criminal Procedure for grant of bail pending trial to the petitioner in FIR No.23 dated 18.04.2019, under Section 22 (c) of the Narcotic Drugs and Psychotropic Substances, Act, 1985 (*for short 'the Act'*), registered at Police Station Rori, District Sirsa.

2. Allegations are that petitioner was found in possession of 5000 Tramadol Hydrochloride tablets (weighed 4.260 kgs.) without any permit or licence.

3. This Court, on 28.04.2022, granted interim bail to the petitioner in the following manner:-

"Learned State Counsel seeks more time for compliance of order dated 03.03.2022.

Posted on 31.05.2022.

Since petitioner is stated to be in custody for the last more than three years, therefore, he be released on interim

bail in the present case till the next date of hearing on his furnishing adequate bail and surety bonds subject to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned”

4. Learned counsel for the petitioner contends that he is regularly appearing before learned trial Court and there is no allegation that petitioner has misused the concession of interim bail or likely to interfere with the Court proceedings in any manner. Also submitted that there is no other criminal case pending against the petitioner.

5. Learned State Counsel, upon instructions, has fairly acknowledged the above factual position and apprised the Court that out of 14 prosecution witnesses, 09 have been examined till date.

6. In view of the above, this Court is inclined to record the twin-test in terms of Section 37 of the Act in the following manner:-

(i) From perusal of paper-book, prima facie, it is not discernible that provisions of Section 50 of the Act were complied with at the time of alleged recovery; thus, it can be termed as a reasonable ground for believing that petitioner is not guilty of offence at this stage;

(ii) Petitioner was granted interim bail and has not misused the concession of the same; thus he is not likely to commit any offence in case of releasing on regular bail.

7. Since trial is likely to take sufficiently long time, thus sending the petitioner in custody at this stage would not serve any purpose.

8. Consequently, present petition is allowed. Interim bail granted to the petitioner, vide order dated 28.04.2022, is made absolute.

He shall be admitted to bail on his furnishing bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

9. Petitioner shall fully co-operate with the learned trial Court without seeking any unnecessary adjournment(s).

10. The above observations may not be construed as an expression of opinion on the merits of the case.

11. It is clarified that in case there is any misuse of concession of bail on the part of the petitioner, State of Haryana would be at liberty to move an appropriate application for recalling of this order.

30.01.2023
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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No