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

**CRM-M-7404-2020 (O&M)
Date of decision : 23.01.2023**

Naresh Kumar

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: None for the petitioner(s).

Mr. Kiran Pal Singh, AAG, Haryana.

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.220 dated 13.09.2018, under Sections 21(c) & 22(c) of the Narcotic Drugs and Psychotropic Substances, Act, 1985 (*for short 'the Act'*), registered at Police Station Kalanwali, District Sirsa.

2. Allegations are that petitioner was found in possession of 78 strips (780 tablets) of Tramadol Hydrochloride 100 mg. of Batch No.TDP-18007, Mfg. – April, 2018, Expiry – March, 2021 without any permit or licence.

3. This Court, on 09.09.2021, granted interim bail to the petitioner in the following manner:-

*“Contends that petitioner is in custody since
13.09.2018 and there is no progress in the trial.*

*Learned State Counsel will verify the above factual
position.*

Posted on 30.11.2021.

Since petitioner is stated to be in custody for the last about three years, let 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 State Counsel, on instructions, has fairly apprised the Court that petitioner is regularly appearing before learned trial Court and there is no complaint to the effect that he has misused the concession of interim bail or likely to interfere with the proceedings in any manner. Also informed that no other criminal case is pending against petitioner and that out of 13 prosecution witnesses, only 06 have been examined till date.

5. In view of the above, this Court is inclined to record 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 discernable 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.

6. Since trial is likely to take sufficiently long time and sending the petitioner in custody at this stage would not serve any purpose. Consequently, the present petition is allowed. Interim bail granted to the petitioner, vide order dated 09.09.2021, 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.

7. Petitioner shall fully co-operate with the learned trial Court without seeking any unnecessary adjournments.

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

9. 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.

23.01.2023

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(MAHABIR SINGH SINDHU)

JUDGE

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