

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

(211)

**CRM-M-15390 of 2023  
DATE OF DECISION:22.05.2023**

Abhi Kumr alias Soni

...Petitioner

vs.

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

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

Mr. Amit Shukla, AAG, Punjab.

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**HARKESH MANUJA, J.**

(1) By way of present petition filed under Section 439 of the Code of Criminal Procedure, 1973, petitioner prays for grant of bail pending trial in case FIR No.120 dated 18.07.2022 under Sections 21(c) NDPS Act, 1985 (Final report under Sections 22(c), 27 of NDPS Act 1985) registered at Police Station Kotwali Bathinda, District Bathinda.

(3) Status report has been filed by way of affidavit under the signature of DSP, City-1, Bathinda, on behalf of respondent No.1-State, the same is taken on record.

(2) In the present case as per allegations levelled against the petitioner, he has been apprehended with 24 Bottles of Cocrex, 24 Bottels of Omrex and 48 strips of Carisoprodol (total 480 tablets).

(3) Learned counsel for the petitioner has tried to put forth certain contradictions and inconsistencies in the memo of recovery as well as memo of consent about the date of FIR been mentioned thereupon, besides the doubts about the association of private witness at the time of recovery. He also submits that investigation in the present case already stands concluded

and the charges have also been framed and none of the prosecution witness has been examined so far and the petitioner who is 28 years of age with no involvement in any other case of similar nature.

(4) On the other hand, learned State counsel opposes the prayer made herein while submitting that the present is a case of substantial recovery of 24 Bottles of Cocrex, 24 Bottels of Omrex and 48 strips of Carisoprodol (total 480 tablets).

(5) I have heard learned counsel for the parties and gone through the paper book. I am unable to find substance in the submissions made on behalf of the petitioner.

(6) In the present case, the petitioner was apprehended late in the evening of between 8:00 p.m. to 9:00 p.m. on 17.07.2022 and as per information provided by learned State counsel the documentation took some time and by the time the same could be completed, the day changed from 17.07.2022 to 18.07.2022 which resulted into creation of some kind of contradictions in the dates over the memo of recovery as well as the memo of consent. Paragraph 5 from the status report dated 21.05.2023 filed on behalf of respondent-State which is relevant for the purpose is reproduced hereunder:

*“That as regards the different dates on the recovery memo (Annexure P-4) which is dated 17.07.2022, the consent memo (Annexure P-5) which is dated 17.07.2022 and the FIR in question is of dated 18.07.2022, it is submitted that the period of occurrence till registration of the FIR in question is the period of intervening night of 17-18.07.2022. So, after apprehending the petitioner-accused, while the recovery memo, consent memo and relevant papers are of dated 17.07.2022 and the FIR in question was registered regarding the occurrence, was registered at the police station on 18.07.2022 at 1:33 hrs.”*

Besides it, the association of private witness and the doubts about his signatures as made on Annexures P-4 and P-6 appended along with the petition is a matter of evidence which can only be gone into at the stage of trial. Thus, in view of the above, considering the heavy recovery of the intoxicants involved in the present case, I do not deem it appropriate to grant concession of regular bail to the petitioner especially in view of the custody period which is only of ten months by now and the present petition is dismissed accordingly.

(7) However, nothing expressed hereinabove shall be construed as an expression of opinion on the merits of the case.

22.05.2023  
anil

**(HARKESH MANUJA)**  
**JUDGE**

whether speaking/reasoned: Yes/No  
whether reportable: Yes/No