

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

CRM-M-17820-2022

Decided on:-13.04.2023

Hashmat Alia @ Sonu

....Petitioner..

VS.

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sahil Puri, Advocate,
for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

HARKESH MANUJA J. (Oral)

By way of present petition filed under Section 439 Cr.P.C, prayer has been made for grant of regular bail pending trial in case FIR No.26 dated 31.01.2022 under Sections 22/61/85 of NDPS Act, 1985, registered at Police Station City Kapurthala, District Kapurthala.

The allegation against the petitioner pertains to recovery of 12 injections of “Marka Leegesic” (2 ml each totalling 24 ml), which is marginally higher than the non-commercial quantity, which is 20 ml.

Learned counsel for the petitioner submits that the petitioner is in custody for the last 01 year and 2 months now and the investigation in the present case already stands concluded with the filing of challan, followed by framing of charges on 29.10.2011. He further submits that out of total 11 witnesses cited by the prosecution only 01 witness has been examined so far

and, thus, the trial is likely to take some time. In addition, learned counsel for the petitioner also submits that in the present case allegation levelled against the petitioner is that he was driving a car while being apprehended with the psychotropic substance on 31.01.2022, however, the petitioner was not in a position to drive the car as his right leg was fractured at that time.

On the other hand learned State counsel opposes the prayer made on behalf of the petitioner while submitting that there are 4 more cases registered against the petitioner, out of which 01 is under NDPS Act, though in that case he is already on bail.

I have heard learned counsel for the parties and gone through the paper-book. I find substance in submissions made on behalf of learned counsel for the petitioner.

Considering the fact that the petitioner is behind the bars for the last more than 01 year and two months now and the investigation in the present case already stand concluded with the filing of challan followed by framing of charges, however, only 01 witness has been examined so far out of total of 11 witnesses cited by the prosecution, thus, trial is likely to take some time. Moreover, the recovered quantity is only marginally higher than the non-commercial quantity. Though, there is one case of NDPS Act, wherein he is already on bail, I do not find any reason to extend the incarceration of the petitioner any further, particularly, when arrest of the petitioner has been under suspicious circumstances having stated to be driving a car on 31.01.2022 while he was having a fracture on his right leg as per the X-ray report appended along with the present petition, thus making the arrest of the petitioner debatable.

In view of the above, without expressing any opinion on the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail bonds and surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

13.04.2023
sonika

(HARKESH MANUJA)
JUDGE

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