

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

**CRM-M-18168-2023
Date of Decision: 24.05.2023**

Sandeep @ Balla

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Sandeep Yadav, Advocate
for the petitioner.

Mr. Ram Kumar Singla, DAG, Haryana

HARSH BUNGER J. (ORAL)

1. Petitioner (Sandeep @ Balla) has filed the present petition under Section 439 of the Code of Criminal Procedure seeking grant of regular bail in case bearing FIR No.212 dated 29.09.2022, under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, registered at Police Station Dujana, District Jhajjar, Haryana.

2. Status report by way of affidavit dated 18.05.2023 of Mr. Pardeep Kumar, H.P.S., Deputy Superintendent of Police, Beri, District Jhajjar, has been filed on behalf of State of Haryana, which is already on record.

3. Custody certificate dated 22.05.2023 of the petitioner is filed by learned State counsel in Court today, which is taken on record, subject to all just exceptions.

4. Briefly, the aforesaid FIR was registered on the basis of a secret information received by Sub Inspector Mukesh Kumar to the effect that Sandeep @ Balla (petitioner), who deals in selling the intoxicant pills, is standing a little distance from his house on the road leading to Village Shimli for selling the intoxicant pills and if the place is raided then he can be apprehended with the intoxicant substance. Finding the information reliable, a raid was conducted at the nominated place and petitioner was apprehended with a polythene bag in his hand and 42 strips of 8 capsules each, i.e. total 336 capsules (expiry in July, 2024) of *Dicyclomine Hydrochloride Tramadol, Hydrochloride Acetaminophen Capsules Spasmo-proxyvon plus* were recovered from the petitioner, in the presence of the Duty Magistrate. The 8 capsules were found weighing 4 grams and 80 milligrams. As such, the weight of total 336 capsules were found to be 201 grams and 6 milligrams.

5. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present FIR No.212 dated 29.09.2022 on the basis of a secret information only. It is stated that no independent witness was joined at the time of alleged recovery and the mandatory provisions as laid down under the Narcotic Drugs and Psychotropic Substances Act were not followed while conducting the search of the petitioner. Learned counsel states that petitioner applied for grant of regular bail before the Court of Additional Sessions Judge, Jhajjar, which was wrongly declined vide order dated 20.12.2022 (Annexure P-2). It is further

stated that the Forensic Science Laboratory Report in this case is still awaited. Learned counsel states that the petitioner is in custody in this case for a period of seven months and twenty two days (as on 22.05.2023) and no other case is pending against him; investigation in the case is complete and challan has already been presented on 10.02.2023. Hence, trial is likely to take some time to conclude. Learned counsel for the petitioner contends that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court; accordingly prayer for grant of regular bail is made.

6. Learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness and gravity of the offences. However, it is fairly submitted that no other case is pending against the petitioner. It is conceded that the petitioner is in custody for a period of seven months and twenty two days; investigation in this case is complete, challan stands presented on 10.02.2023. While referring to the status report, learned State counsel submits that the recovery effected from the petitioner is of intermediate quantity and Forensic Science Laboratory Report is still awaited in the present case.

7. I have heard learned counsel for the parties and perused the paper book as well as the status report and custody certificate of the petitioner.

8. Petitioner has been in custody for a period of seven months and twenty two days (as on 22.05.2023) and no other case is pending against the petitioner. The recovery effected from the petitioner is of intermediate quantity and does not attract the rigors of Section 37 of the Narcotic Drugs and Psychotropic Substances Act. Forensic Science Laboratory Report is

still awaited in this case. Investigation in the case is complete and challan stands presented on 10.02.2023. Hence, trial in the case is likely to take long time to conclude and no useful purpose would be served by keeping the petitioner behind the bars for an indefinite period.

9. Keeping in view the aforementioned circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of case/trial and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity. The petitioner shall also appear before the concerned Police Station/Station House Officer on first Monday of every month till the conclusion of trial.

10. In addition, the petitioner (or anyone on his behalf) shall prepare a Fixed Deposit Receipt (F.D.R.) in the sum of Rs.50,000/- and submit the same with the trial Court. The same would be liable to be forfeited as per law, in case the petitioner remains absent from trial without any sufficient cause.

11. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

- 12. The petition is accordingly disposed of.
- 13. All pending application(s), if any, shall also stand closed.

24.05.2023
Apurva

(HARSH BUNGER)
JUDGE

- 1. Whether speaking/reasoned : Yes/No
- 2. Whether reportable : Yes/No