

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

CRM-M-22330-2023

Decided on:-09.05.2023

Manjinder Singh

....Petitioner..

VS.

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sandeep Kumar Passi, Advocate for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

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.33 dated 26.02.2021 under Section 22(b) of NDPS Act, 1985 and later on charges were framed under Section 22(c) of the NDPS Act, registered at Police Station Police Station City Kotkapura, District Faridkot, Punjab.

(2) The allegations levelled in the FIR are of alleged recovery of 1000 tablets containing Tramadol Hydrochloride salt from three persons including petitioner while they were travelling on a motorcycle. The alleged recovery has been shown from a transparent polythene bag.

(3) Learned counsel for the petitioner submits that the investigation in the present case already stands concluded with the filing of *challan* followed by framing of charges and out of the total 17 witnesses as cited by the prosecution, only 3 have been examined so far. Learned counsel further

submits that the petitioner is behind the bars for a period of 1 year, 4 months and 2 days and the other two co-accused have already been granted bail by this Court vide separate orders dated 27.03.2023 passed in CRM-M-8339-2023 and order dated 20.04.2023 passed in CRM-M-17749-2023.

(4) On the other hand, learned State counsel opposes the prayer made herein while submitting that huge recovery of contraband has been involved in this case.

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

(6) The investigation in the present case already stands concluded with the filing of *challan* followed by framing of charges and the petitioner is behind the bars for a period of 1 year, 4 months and 2 days now. The conclusion of the trial is likely to take some time specially under the circumstances that only 3 witnesses have been examined, out of 17 cited by the prosecution. More than that, the other co-accused of the petitioner namely, Rampal Singh and Gurpal Singh @ Happy in the same FIR have already been granted concession of regular bail by this Court vide order dated 27.03.2023 passed in CRM-M- 8339-2023 and order dated 20.04.2023 passed in CRM-M-17749-2023 respectively. The operative part of order dated 27.03.2023 read as under:

“In the present case, the petitioner has been in custody for a period of more than 1 year 2 months and 3 days and is stated to be not involved in any other case and out of 17 witnesses, none have been examined and thus, the trial is likely to take time. Although, the recovery effected in the present case is of commercial quantity, but there are arguable points in favour of the petitioner, inasmuch as, as per the prosecution's case, the petitioner was stated to

*have been carrying a "**transparent polythene bag**" while riding a motor cycle along with the other co-accused. In the judgments reproduced hereinabove, Coordinate Benches of this Court had found the said point to be a debatable issue and observed that it was highly unlikely for a person who intends to commit an offence with respect to some contraband, to carry the same in a transparent polythene bag, making it visible to everybody who passes by. The said issue raises arguable points in favour of the petitioner which would be finally determined during the course of trial. Moreover, this Court proposes to impose such conditions that would meet the object of Section 37 of the NDPS Act."*

(7) Without commenting anything on the merits, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate.

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

09.05.2023

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(HARKESH MANUJA)
JUDGE

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