

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-24472-2022 (O&M)
Date of decision: 23.03.2023

Gaurav Kumar
....Petitioner
Versus
State of Punjab
....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Nitin Garg, Advocate
for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this 2nd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.35 dated 02.03.2021, registered under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act (in short 'the NDPS Act') at Police Station Gobindgarh Mandi, District Fatehgarh Sahib.

The new ground for filing this petition is that the petitioner is in custody for the last more than 02 and he is not involved in any other case.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered at the instance of ASI Gurbhej Singh, it is stated that while on petrol duty, a person was seen coming on foot carrying a bag. On seeing the police party, he became perplexed and tried to run away and on the basis of suspicion, he was apprehended

and disclosed his name as Gaurav Kumar i.e. the present petitioner. Thereafter, on the basis of suspicion that he may be carrying some intoxicant substance, he was given a notice to be searched before a Gazetted Officer or a Magistrate and he gave his consent to be searched before a Gazetted Officer and the Deputy Superintendent of Police was called at the spot. On search, the recovery of 10,000 tablets of TRAMADOL HYDROCHLORIDE was recovered.

Counsel for the petitioner has submitted that the petitioner is a first offender and it will be a matter of trial whether Section 42 and 50 of the NDPS Act have been properly complied with or not. It is also submitted that the custody of the petitioner is more than 02 years and out of 15 only 02 PWs have been examined.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last more than 04 years; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time as out of 15 PWs only 02 PWs have been examined and in view of ***“Satender Kumar Antil vs Central Bureau of Investigation and another”***, passed in SLP (Crl.) No.5191 of 2021, decided on 11.07.2020, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

23.03.2023
yakub

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