

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

**CRM-M No.28627 of 2020 (O&M)
Date of Decision: 27.01.2023**

Kaviraj @ Kavei

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- None for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana for the respondent.

MAHABIR SINGH SINDHU, J.

Second petition has been filed under Section 439 of the Code of Criminal Procedure for grant of bail pending trial to the petitioner in FIR No.09 dated 04.02.2019, under Section 22 of the Narcotic Drugs and Psychotropic Substances, Act, 1985 (*for short 'the Act'*), registered at Police Station Nathu Sarai Chopta, District Sirsa.

2. Allegations are that on 04.02.2019, ASI Deepak Kumar, along with other police officials, apprehended the petitioner on suspicion in the area of Village Barasari, Sirsa. Thereafter, on search of bag, carried by petitioner, contraband i.e. 1600 capsules of NRX Tramadol Hydrochloride Dicyclomine Sodium Dicyclomine Hydrochloride & Chlorpheniramine Maleate Capsules Parvorin Spas Ridley, contained in 08 boxes, were recovered.

3. This Court, on 17.11.2020, granted interim bail to the petitioner in the following manner:-

“Photocopy of reply by way of affidavit dated 12.11.2020 of Jagat Singh, HPS, Deputy Superintendent of Police, Ellenabad, District Sirsa is taken on record. Registry to tag the same at appropriate place.

Although report under Section 173 Cr. P.C. was submitted in March 2019, but learned State counsel is not able to satisfy the Court that copy of the FSL report was ever supplied to the petitioner at any point of time till date. He seeks time to have instructions in the matter.

On his request, adjourned to 21.01.2021.

In the meanwhile, let petitioner be released on interim bail, till the next date of hearing, subject to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate concerned.”

4. Learned State Counsel, on instructions, has apprised the Court that after grant of interim bail, petitioner is regularly appearing before learned trial Court and there is no apprehension that he is likely to misuse the concession in any manner. Also acknowledged that there is no other criminal case pending against the petitioner.

5. In view of the above, there is no hesitation to record twin-test satisfaction in terms of Section 37 of the Act to the following effect:-

(i) From perusal of paper-book, prima facie, it is not discernible that provisions of Section 50 of the Act were complied with at the time of alleged recovery; thus, it can be termed as a reasonable ground for believing that petitioner is not guilty of offence at this stage;

(ii) Petitioner was granted interim bail and has not misused the concession of the same; thus he is not likely to commit any offence in case of releasing on regular bail.

6. In such a situation, sending the petitioner in custody at this stage would not serve any purpose.
7. Consequently, the present petition is allowed. Interim bail granted to the petitioner, vide order dated 17.11.2020, is made absolute. He shall be admitted to bail on his furnishing bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
8. Petitioner shall fully co-operate with the learned trial Court without seeking any unnecessary adjournments.
9. The above observations may not be construed as an expression of opinion on the merits of the case.
10. It is clarified that in case there is any misuse of concession of bail on the part of the petitioner, State of Haryana would be at liberty to move an appropriate application for recalling of this order.

January 27th, 2023
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No