

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

CRM-M-34606-2020

Date of decision : 28.02.2023

Arvind Kumar @ Chinu

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.139 dated 10.07.2020, under Section 22 of NDPS Act, registered at Police Station Sangat, District Bathinda.

Succinctly, the facts of the case are that the statement of ASI Jaswinder Singh was recorded wherein it was alleged that when they were present on Nakabandi at main Bathinda Dabwali Road near International Barrier Doomwali, Punjab Mandi Board, they stopped Alto Car coming from Dabwali side in which two clean shaved young persons were travelling. They were stopped by the police party and on seeing them, they got perplexed. Both were apprehended on the spot and the driver of the car disclosed his name as Arvind Kumar @ Cheenu whereas, second one disclosed his name as Arun Goel. Search of the car was conducted and on the back seat, three boxes of Khaki colour were found and two transparent polythene were lying on the footstep of conductor seat. On search conducted after compliance of Section 52 of NDPS Act, the police recovered 330 vials of Wincirex syrup and 2100 tablets of Carisoma and

950 tablets of Clovidol 100 SR. The samples were taken and were sent to the FSL. The tablets of Carisoma were not covered under the NDPS Act whereas, the vials of Wincirex syrup and that of Clovidol 100 SR were found to be prohibited drugs. The investigation commenced and the petitioner was arrested on the spot on 10.07.2020. He approached the Court of learned Judge, Special Court, Bathinda praying for grant of bail. However, after hearing counsel for both the sides, learned Judge, Special Court declined the same vide order dated 28.09.2020. Aggrieved by the same, petitioner is before this Court praying for grant of regular bail.

Learned counsel for the petitioner has submitted that the petitioner was falsely implicated in this case. He submits that the petitioner is not the owner of the car. He further submits that the recovery of the alleged contraband has been effected from the back seat of the car and thus, there is no conscious possession of the petitioner. He further submits that the petitioner is behind bars from last more than 2½ years and till date the prosecution has not even examined half of the witnesses. He submits that co-accused Arun Goel had taken specific stand that he was a chemist and had the license to sell the alleged contraband and thus, no offence as alleged is made out. He submits that the petitioner has no criminal antecedents as he has never been involved in any other case of similar nature.

Learned State counsel, on the other hand, has opposed the submissions made by counsel for the petitioner. He submits that heavy quantity of the contraband was recovered from the car which the petitioner was driving. He submits that the samples were sent to the FSL and the same were confirmed to be Tramadol and Codeine. He submits that the

Codeine is weighed to 31 kg whereas Tramadol weighed about 390 grams

and as per the provision of NDPS Act, both the contraband fall under the commercial quantity. He further submits that as per the instructions, the petitioner is not involved in any other case. He has further submitted that out of 22 prosecution witnesses, only 05 witnesses are examined as on date.

I have heard counsel for the parties and perused the record. Evidently, the petitioner is behind bars from last about 02 years and 07 months. Out of 22 prosecution witnesses, only 05 witnesses are examined. The petitioner was alleged to be driving the car from which the alleged contraband was recovered. There is nothing on record to show that the petitioner is involved in any other case of similar nature. This Court would refrain itself from commenting anything on the merits of the case. However, custody of the petitioner itself is more than 2½ years and thus, the same would take sufficiently long time.

The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

28.02.2023
m. sharma

(**RAJESH BHARDWAJ**)
JUDGE

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