

CRM-M-37898-2022

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

CRM-M-37898-2022 (O & M)

Date of decision: 09.03.2023

Naveen Saini

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. S.P.S.Khaira, Advocate,
for the petitioner.

Ms. Ishma Randhawa, Additional AG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

CRM-9643-2023

Allowed as prayed for. Annexure A-1 is taken on record.

CRM-9653-2023

Since the main petition is pending adjudication for today itself, the present application for an early hearing of the same has become infructuous.

Dismissed as having become infructuous.

CRM-M-37898-2022

Through this second petition (the first one having been dismissed as withdrawn on 28.04.2022), the petitioner seeks regular bail in case bearing FIR No.110 dated 26.07.2021, registered under Sections 22, 22-C and 29 of the NDPS Act, at Police Station STF, Phase-4, Mohali, District SAS Nagar.

CRM-M-37898-2022

Learned counsel for the petitioner submits that the petitioner has falsely been involved in the present case; that the petitioner has been in custody since 26.07.2021 and that 800 intoxicant tablets and 576 intoxicant capsules were alleged to be recovered from the petitioner. Learned counsel further submits that mandatory provisions of Section 42 NDPS Act have not been complied with by the police for the reason that search and seizure were completely vitiated in view of the aforesaid section, and that charges have been framed, but out of 24 prosecution witnesses, none has been examined so far.

Learned counsel for the petitioner further contends that similarly situated co-accused, Amit Arora, a licensed chemist, who had been running a shop in the name and style of 'Kashish Medicose', has since been granted the concession of regular bail by a Coordinate Bench, vide order dated 22.02.2023 passed in CRM-M-46900-2021. Learned counsel further submits that there is no other case registered or pending against the petitioner, at least of a similar nature. Learned counsel prays that the petitioner be also released on bail on the ground of parity.

In support of his contentions, learned counsel for the petitioner relies upon the judgments rendered by the Hon'ble Supreme Court in 'Darshan Singh Vs. State of Haryana 2016(1) RCR (Criminal) 333 and 'State of Rajasthan Vs. Chhagan Lal' 2014(4) RCR (Criminal) 559, and the judgments by the Coordinate Benches of this Court in CRM-M-25498-2021, titled as 'Pankaj Vs. State of Punjab' decided on 14.06.2022 and CRM-M-47096-2021, titled as 'Bahadur Singh Vs. State of Punjab', decided on 15.07.2022.

CRM-M-37898-2022

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that extent of intoxicating tablets/capsules recovered from the petitioner and the co-accused, falls under the 'commercial quantity', and that question whether there was any violation of Section 42 NDPS Act, would be considered at the time of trial.

I have heard the learned counsel for the parties.

Recovery of contraband has already been effected. The petitioner has been in custody since 26.07.2021. Out of 24 prosecution witnesses, none has been examined so far. Trial of the case would take time to conclude. There is no other cases registered or pending against the petitioner, at least of a similar nature. As stated above, co-accused, namely, Amit Arora has since been granted the benefit of regular bail. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

09.03.2023

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No