

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-40465-2023
Date of decision:-15.12.2023

Ranjit Singh

... Petitioner

Versus

State of Punjab

.. Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr.Ashok Giri, Advocate
for the petitioner.

Mr.Ravinder Singh, AAG, Punjab.

SUVIR SEHGAL, J. (ORAL)

1. Instant petition has been filed under Section 439 Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
46	22.05.2023	Sadar, Rupnagar	22 of NDPS Act (later on offence under Section 29 NDPS was added)

2. Case of the prosecution is that FIR has been registered when during routine checking, a car was intercepted and recovery of 255 gram of Tramadol was effected from a transparent polythene bag found in its dashboard. The driver of the car identified himself as Balraj Singh @ Baaj

and the other occupant of the car disclosed his name as Sandeep Choudhary @ Sunny.

3. Counsel for the petitioner contends that neither the petitioner has been named in the FIR nor any recovery has been effected from him. By referring to the confessional statement of accused Balraj Singh @ Baj, Annexure P1, he submits that the petitioner has been arraigned as an accused and apprehended on 25.05.2023, on the allegation that he is the supplier. Counsel submits that the petitioner is ailing and is under medical treatment. He has also referred to the discharge -cum – follow-up card, Annexure P2, issued by PGIMER, Chandigarh. He asserts that the petitioner, who has clean antecedents and is in custody since 25.05.2023 deserves to be enlarged on bail.

4. *Per contra*, State counsel upon instructions from HC Parshotam Lal has opposed the petition and submits that as the recovery falls within the scope of commercial quantity, bar under Section 37 of NDPS Act will apply. He could not dispute that no recovery has been effected from the petitioner. He has filed custody certificate dated 14.12.2023 and submits that out of eleven prosecution witnesses, four have been examined.

5. I have heard counsel for the parties and considered their respective submissions.

6. Pursuant to order passed by this Court, petitioner has been medically examined and a report has been submitted by the Medical Officer, District Jail, Rupnagar, relevant extract of which is as under:

“It is submitted that above said patient is K/C/O TRANSVERSE

MYELITIS/ACUTE DISSEMINATED ENCEPHALOMYELITIS due to which he complains of weakness in his lower limbs. He is getting treatment for the same in District Jail, Rupnagar as recommended by orthopedician, district Hospital, Rupnagar. He is also suffering from bed sore for which he shall be provided surgeon's consultation as soon as possible.

The above information is based on the medical record available at Hospital District Jail Rupnagar. This is for your information please.

From

Sd/-

*Medical Officer,
District Jail, Rupnagar"*

7. It is evident from the reproduced report that the petitioner has a rare inflammatory disease of central nervous system effecting body's immunity level. The medical report also shows that the petitioner has been bedridden resulting in bed sore.

8. Furthermore, as no recovery has been effected from the petitioner, bar under Section 37 of the NDPS Act would not apply as has been held by a Division Bench of this Court in **Dharamveer and another Versus State of Punjab 2015 SCC Online P&H 5526**. Petitioner has an unblemished past and he has been in detention for the last more than 6 months. Furthermore, the trial is not likely to conclude in the near future.

9. Keeping in view the above facts and circumstances, this Court is prima-facie of the view that the petitioner is entitled to be released on bail.

10. Without advertng to the merits or demerits of the arguments

addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.

11. Any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

15.12.2023
Brij

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No