

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

216-1

CRM-M-43578-2022 (O&M)
Date of decision: 03.08.2023

Pawan Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Lokesh Sharma, Advocate for
Mr. Aditya Sanghi, Advocate for the petitioner.

Mr. Baljinder Singh Virk, Sr. DAG, Haryana.

AMAN CHAUDHARY, J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.298 dated 25.06.2022, registered under Section 17 of NDPS Act, 1985, at Police Station Rania, District Sirsa.
2. Learned counsel contends that the petitioner was granted interim bail under Section 167(2) CrPC by this Court in CRR-1965-2022, vide order dated 29.09.2022, after having been in custody for 3 months and 3 days. The quantity of contraband allegedly recovered from him is non-commercial, it being 1.5 kg of opium. There is no allegation against the petitioner of having misused the concession of bail and he is also not involved in any other case under the NDPS Act. The FSL report has yet not been received. Though challan stands presented on 20.08.2022, however, charges are yet to be framed and in all there are 16 witnesses.

3. The custody certificate dated 02.08.2023, filed by learned State counsel is taken on record. As per the same, the petitioner remained behind bars for 3 months and 3 days.

4. Learned State counsel opposes the bail on the ground that the petitioner was apprehended at spot and non-commercial quantity of contraband was recovered from him. He is, however unable to controvert the submissions made regarding the stage of the case, non-receipt of FSL, petitioner being not involved in any other case under the NDPS Act and there being no complaint received against him of having misused the interim bail granted to him.

5. Heard.

6. Considering the facts and circumstances of the case, in particular that the petitioner remained in custody for 3 months and 3 days; non-commercial quantity of contraband has been recovered from him; on interim bail since 29.09.2022, not misused the liberty granted; not involved in any other case under NDPS Act; challan was presented on 20.08.2022, however, charges have not yet been framed and in all there are 16 witnesses; not misused the concession of interim bail; , therefore, rigors of Section 37 of NDPS Act are not attracted in the present case; the trial is likely to take a considerable time, thus his further incarceration would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

7. As a result, the present petition is allowed. Since, the petitioner is on interim bail, he is directed to surrender and furnish fresh bail/ surety bonds to the satisfaction of the trial Court/Duty Magistrate

concerned. On his doing so, he shall be released on bail, subject to his not being required in any other case. The petitioner shall abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
- (v) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- (vi) The petitioner shall not in any manner misuse his liberty.
- (vii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- (viii) The petitioner shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

8. It is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

9. In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would

not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

03.08.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No