

CRM-M-43953-2022 (O&M) AND  
CRM-M-9531-2023 (O&M)

215 (2 cases)  
IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: July 20, 2023

- Happy

State of Punjab
1. CRM-M-43953-2022 (O&M)

versus

2. CRM-M-9531-2023 (O&M)
- Vishal

State of Punjab
- ....Petitioner

....Respondent

....Petitioner

....Respondent

CORAM: HON’BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Amit Dhawan, Advocate for petitioner  
in CRM-M-43953-2022.

Mr. Ranbir Singh Sekhon, Advocate for petitioner  
in CRM-M-9531-2023.

Mr. Virat Rana, AAG Punjab.

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ARUN MONGA, J. (ORAL)

- Vide this common order, above-mentioned two bail petitions arising out of same FIR are being disposed of. For brevity, recitals are from CRM-M-43953-2022.
2.

Petitioners seek bail in case bearing FIR No.50 dated 18.04.2022, registered under Sections 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short ‘NDPS Act’), at Police Station Makhu, District Ferozepur.
3.

Per prosecution version, on secret information, petitioners were intercepted while they were riding on a motorcycle. On their search, accused-Vishal threw a carry bag of black colour, 600 intoxicating tablets of Etizolam. Likewise, accused- Happy threw a carry bag containing 400 intoxicating tablets each of Etizolam and Etifresh. Thrown bags were recovered from the spot. Both accused were arrested right away. FIR was registered.
4.

Learned counsel for petitioners submits that petitioners have been falsely implicated in this case. Petitioners were not present at the spot and have been involved in

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the FIR after arresting from their respective house. No alleged offence has been made out against the petitioner. FIR has been registered on the basis of secret information. He further submits that petitioners were not found in possession of alleged contraband. He submits that alleged contraband in any case is a prescription medicine. He also submits that there was no compliance of mandatory provisions of NDPS Act as no independent witness/public witness/gazetted officer was joined by the police at the time of alleged recovery/seizure of contraband. Nothing is to be recovered from the petitioners. They are not required for further custodial interrogation. There is no likelihood of petitioners tampering with evidence and/ or influencing prosecution witnesses.

5. On the other hand, learned State counsel, on instructions from ASI Karan Singh, opposes the bail petition. He submits that petitioners have committed a serious offence. In case, petitioners are granted concession of bail, there are chances of their fleeing from justice.

6. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

7. On a Court query, state counsel informs that challan has already been filed and charges were framed on 27.02.2023. Even charges have already been framed and trial has commenced. Petitioner is thus not required for custodial interrogation. There are total 11 witnesses, out of them none has been examined so far. Alleged recovery from the petitioners is of prescription medicine being carried by them without permit/license.

8. Be that as it may, allegation are yet to be adjudicated by the Court below. Trial is likely to take long time as it is proceeding at a snail pace. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioners have already been in jail for the last more than 1 year and 3 months each in preventive custody.

8.1. Petitioners are being kept in preventive custody merely on an unfounded suspicion that if they are let out, they may either tamper with evidence and/ or influence witnesses. There is no documentary evidence and it is more in the nature of FSL report

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no probability of tampering with evidence as the same has already been seized by the investigating agency. As regards witnesses, they are all official and therefore, they are unlikely to be influenced, even if there is any such apprehension by the prosecution.

9. It is stated that petitioner Happy is 22-year old while petitioner Vishal is aged 18 years. If not released on bail, they will suffer further adversarial impact on their carrier prospects due to their continued incarceration and may be rendered jobless forever. Petitioners have clean antecedents.

10. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioners in further preventive custody.

11. Accordingly, petitioners in both the petitions are ordered to be released on bail on their furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where their case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

12. In case, petitioners are found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of their bail in the instant case.

13. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.

14. Pending application(s), if any, shall also stand disposed of.

15. A photocopy of this order be placed on the file of the connected case.

(ARUN MONGA)  
JUDGE

July 20, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No