

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-45747-2022 (O&M)

Date of Decision: 09.01.2023

Atul Syal

.... Petitioner

Versus

State of U.T. Chandigarh

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Anoop Verma, Advocate for the petitioner.

Mr. Anil Kumar Lamdharia, Addl. P.P. for U.T. Chandigarh.

ASHOK KUMAR VERMA, J. (ORAL)

CRM-42656-2022

Application is allowed as prayed for.

Video recording of CCTV footage dated 28.07.2022, is taken on record, subject to all just exceptions.

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Custody certificate dated 08.01.2023 and status report dated 19.12.2022, filed by way of affidavit of Ms. Palak Goel, Deputy Superintendent of Police (East), U.T. Chandigarh, on behalf of respondent-U.T., are taken on record.

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No. 55 dated 28.07.2022 registered under Sections 21 and 22 of the NDPS Act at Police Station Sector-19, U.T. Chandigarh.

Briefly, the present case was registered on the complaint of SI Prem Singh, alleging therein that on 28.07.2022, he along with other police officials was present on special naka duty near Government School and beat box, Sector 18 Chandigarh. During checking at about 01.55 a.m. one Swift Dezire car bearing registration No. CH-01-AX5394, was seen coming from the side of Sector 19, Chandigarh. On the seeing the police party, the driver of the said car stopped the car at a little distance before naka and after opening the doors of the car the persons sitting in the car tried to flee from the spot but both were apprehended near beat box. Being over powered by the police, the driver of the car tried to throw away one plastic carrybag from his right pocket of his pant but was caught hold by SI Prem Singh. The another person accompanying him was also apprehended by the police official who also tried to throw away one plastic bag. During interrogation, they disclosed their names as Gaurav S/o late Sh. Sharanjeet Singh, aged around 32 years R/o House No. 274-A, Sector-21A Chandigarh and Atul Syal @ Sunny S/o late Sh. Amit Syal, aged around 31 years R/o House No. 72, Block C-3, Gulmohar City Haibatpur Road, Derabassi, Punjab. On checking the polythene bag recovered from the possession of Gaurav, 15 grams of brown coloured power i.e. heroin/smack was found and he disclosed that he is habitual to take said contraband whereas from the possession of present petitioner, total 28 injections i.e. 14 injections of Pheniramine melate IP (Avil) 10 ml each and 14 injections of Buprenorphine IP 2 ml each were recovered, without any licence or permit.

Learned counsel for the petitioner contends that the

petitioner has been falsely implicated in the present case as he is not indulged in any such incident as alleged in the FIR. After completion of investigation, challan has already been presented before the trial Court. Charges have also been framed and the next date before the trial Court is 15.02.2023, for recording the prosecution evidence. The petitioner is in custody since 28.07.2022. He is not involved in any other case. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Co-accused of the petitioner, namely; Gaurav, has already been granted regular bail by the trial Court vide order dated 12.09.2022 (Annexure P-3). Therefore, the petitioner may be released on regular bail. In support of his contentions, learned counsel for the petitioner has relied upon judgments in **(i) Charanjit Kaur vs. State of Punjab, 2022 (1) Law Herald 735; (ii) Harinder Singh @ Happy vs. State of Punjab, 2022(1) Law Herald 548; (iii) Sukhwinder Singh @ Vicky vs. State of Punjab, 2021(1) RCR (Criminal) 177 and (iv) Nitin Rajput @ Raman vs. State of Punjab, 2019(1) Law Herald 69.**

On the contrary, learned State counsel opposed the present petition for grant of regular bail to the petitioner. The petitioner was apprehended with conscious possession of 14 injections of Buprenorphine IP 2 ml, without any licence or permit and the total quantity comes to 28 ml which falls under the category of 'commercial quantity'. However, learned State counsel fairly conceded that petitioner is the first offender and is not involved in any other case under the NDPS Act.

I have heard learned counsel for the parties.

Keeping in view the facts and circumstances of the case, the fact that petitioner is not involved in any other case, parity with co-accused, namely, Gaurav, who has already been granted regular bail by the trial Court vide order dated 12.09.2022 (Annexure P-3) and also the fact that conclusion of trial may take a long time but without commenting on merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Therefore, the petition is allowed and petitioner-Atul Syal, is ordered to be released on regular bail on his furnishing bail bond with one surety of heavy amount to the satisfaction of the trial Court/Chief Judicial Magistrate concerned.

State will be at liberty to file application for cancellation of petitioner's bail, if he is found involved in any other criminal activity during the period of bail.

January 09, 2023
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No