

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-49549 of 2021(O&M)
Date of Decision: 26.04.2023

Roshan Lal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Amit Choudhary, Advocate
For the petitioner.

Mr. Vishal Kashyap, DAG Haryana.

KARAMJIT SINGH, J.

CRM-17336 of 2023

This is an application for pre-ponment of main case which is fixed for 19.05.2023.

Learned State counsel submits that he has no objection if the hearing of the main case is pre-poned.

In view of the above, instant application is allowed. Hearing of the main case is pre-poned and the same is taken up for hearing today itself.

CRM-M-49549 of 2021

The present petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case having FIR No. 183 dated 06.08.2021, registered under Sections 22(c), 27-A of Narcotic Drugs and

Psychotropic Substances Act (for brevity, the Act) at Police Station Ratia, District Fatehabad.

The allegations in nutshell are that police arrested co-accused Akhil and Mohit and recovered 17000 tablets of Tramadol from them on 06.08.2021. Thereafter on the basis of the disclosure made by them, co-accused Ram Ashray was arrested on 09.08.2021 and he made disclosure statement against the present petitioner and then the petitioner was arrested on 07.09.2021. The police recovered one mobile phone, five sim cards and Rs.1400/- from the petitioner.

The counsel for the petitioner submits that the petitioner was not named in the FIR which was registered against Akhil and Mohit who were apprehended by the police along with 17000 tablets of Tramadol and on the basis of their disclosure Ram Ashray was arrested but no contraband was recovered from him. The counsel for the petitioner further submits that as per prosecution version aforesaid Ram Ashray made disclosure about the petitioner and then petitioner was arrested on 07.09.2021. That, however, no contraband is recovered from the petitioner who is not facing any other criminal case under the Act, at present. The counsel for the petitioner further submits that the alleged disclosure made by co-accused against the present petitioner is subject matter of trial. The counsel for the petitioner further submits that the trial is not progressing ahead as till date no prosecution witness is examined. So, prayer is made that the petitioner be released on bail.

The present petition is resisted by the State counsel who, on instructions from SI Mahender Singh, submits that at the first instance police arrested Akhil and Mohit and recovery of 17000 tablets of Tramadol was

effected from them and the said recovery falls under commercial quantity. It is further submitted that Ram Ashray was arrested by the police on the basis of disclosure statement made by co-accused Akhil and Mohit and said Ram Ashray further disclosed the name of the petitioner to be the person from whom he procured the said contraband. The State counsel further submits that the petitioner was arrested in this case on 07.09.2021. However, the State counsel has not disputed the fact that no contraband was recovered from possession of the petitioner and further till date no prosecution witness has been examined, out of total 25 witnesses.

I have considered the submissions made by counsel for the parties.

Admittedly, the petitioner was not named in the FIR which was registered against Akhil and Mohit from whom police recovered commercial quantity of medical intoxicants and they further disclosed that the said contraband was procured by them from Ram Ashray and resultantly, Ram Ashray was arrested but no contraband is stated to be recovered from said Ram Ashray who further made disclosure statement that he got the said contraband from the petitioner and then petitioner was arrested on 07.09.2021. Admittedly, no contraband has been recovered from the possession of the petitioner. The admissibility and relevance of the disclosure statement made by co-accused against the petitioner will be tested during the trial. Undoubtedly, the trial is not moving ahead as till date no prosecution witness has been examined. Further, at present the petitioner is not facing any other case under the Act. In the light of the above, no purpose is going to be served by keeping the petitioner in custody for any longer period.

Thus, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

26.04.2023

Jiten

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No