

218 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47176-2023

Date of Decision: 25.09.2023

Malwinder Singh @ Raman @
Malwinder Singh Rattu

...Petitioner

VS.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Raghav Goyal Chandiwalla, Advocate
for the petitioner.

Mr. Mohinder Singh Joshi, Additional Advocate General, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.215 dated 26.09.2021 registered under Sections 22(C), 29, 61, 85 of NDPS Act, at Police Station City Kotkapura, District Faridkot.

2. Learned counsel for the petitioner submits that in the present case, the petitioner was not named in the FIR and has been falsely involved in the present case only on the basis of suspicion. He further contends that as per the case of the prosecution, two persons, namely, Kuldeep Singh @ Mintu and Pawan Kumar were arrested by the police on 26.09.2021 and during their search, the police recovered 37 strips of intoxicant tablets and each strip contained 50 tablets and thus, the total recovery from the said two co-accused was 1850 tablets, which were levelled as Tramadol Hydrochloride. Learned counsel further contends that the petitioner has been falsely involved in the

present case on the basis of the disclosure statement suffered by co-accused and no recovery was effected from him, when he was arrested by the police wrongly on 25.11.2021. Learned counsel further contends that the petitioner is in custody for the last 10 months and is the first offender. He further contends that the petitioner was ordered to be released on interim bail on 14.12.2021 and after receipt of the FSL report, he again surrendered on 04.08.2023. He next contends that the charges have been ordered to be framed in the present case on 04.08.2023 and the trial Court may take quite a long time to conclude the trial.

3. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that 1850 tablets were recovered, which contained 729.418 grams of Tramadol Hydrochloride, which would fall under the category of 'commercial quantity'.

4. Having heard learned counsel for the parties and perusing the record, this Court is of the considered opinion that the present petition deserves to be allowed by this Court. No doubt, the recovery of contraband from two co-accused falls within the category of 'commercial quantity', but after the arrest of the petitioner on 25.11.2021, no recovery was effected from the present petitioner and his case is clearly distinguishable from the case of rest of the accused. Apart from that, the petitioner was granted the concession of interim bail on 14.12.2021 and had surrendered on 04.08.2023 and the learned State counsel has failed to show that the petitioner had ever misused the concession of interim bail granted to him. Apart from that, it is also apparent from the record that the petitioner is the first offender and deserves sympathetic consideration by this Court.

5. 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/Duty Magistrate/Chief Judicial Magistrate, concerned.

25.09.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No