

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

267

**CRM-M-53412-2022
Date of Decision: .01.03.2023**

NEERAJ KUMAR @ RISHU

... Petitioner

VERSUS

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. M.S. Sidhu, Advocate
for the petitioner.

Mr. Vishnav Gandhi, DAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case bearing FIR No.43 dated 03.03.2021 under Sections 22/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Fatehgarh Sahib, District Fatehgarh Sahib, Punjab.

Briefly, the case of the prosecution is that the petitioner was apprehended by patrolling party on the alleged suspicion of some intoxicant substance. The search of the petitioner is claimed to have been conducted at the option of the petitioner, in the presence of Manjit Singh, DSP, Fatehgrah Sahib. It is the case of the prosecution that upon search of the petitioner, 12 injections make Buprenorphine of 2 ml each, 7 vials make Avil of 10 ml each and certain other injections were recovered from the possession of the petitioner. It is also noticed that the injections were not having any batch number or date of manufacturing or date of expiry. The said injections were

put into polythene bag and were taken in possession by the Investigating Agency.

Learned counsel for the petitioner contends that the petitioner is in custody since 06.03.2021 and the charge against the petitioner were framed on 16.12.2021. It is contended that the petitioner has undergone an actual custody two years, however, only one witness has been examined so far. It is further argued that the petitioner was granted concession of interim bail vide order dated 10.05.2022 till the receipt of FSL and in case the quantity is found to be commercial in nature, the petitioner was required to surrender before the trial Court and liberty was, however, granted to the petitioner to move fresh application for bail. He contends that the petitioner could not avail the benefit of the aforesaid order granting interim bail to the petitioner since the FSL report was received on the very next day. Hence, he continued to remain in custody. It is averred that all the aspects in relation to the recovery have already been taken into consideration while granting the concession of interim bail to the petitioner vide order dated 10.05.2022 passed in CRM-M-9179-2022.

Learned State Counsel contends that the recovery in question is of commercial quantity and the petitioner is involved in other similar cases as well. He, however, could not dispute the fact that the petitioner was granted interim bail vide order dated 10.05.2022 in the abovementioned case i.e. CRM-M-9179-2022. It is also not disputed that only one witness has been examined in this case despite the petitioner having been undergone the actual custody of two years. No valid reasons have been assigned by the prosecution for having failed to conclude its evidence even though the charges had been framed against the petitioner on 16.12.2021.

Taking into consideration the circumstances noticed above, the fact that the petitioner was earlier granted the concession of interim bail by this Court as well as the provisions of Article 21 of the Constitution of India, I deem it appropriate to allow the instant petition, however, the same shall be subject to the condition that in case the petitioner is found to be indulged in similar other case under the NDPS Act, 1985, the concession of regular bail granted herein shall come to an end and the petitioner shall be taken into custody forthwith.

Accordingly, the present petition is allowed subject to the above said condition and the petitioner is admitted to regular bail on his furnishing adequate bail/surety bonds to the satisfaction of trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

Petition stands allowed accordingly.

01.03.2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No