

201 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-52707-2023
Date of Decision:20.10.2023

Pawan Kumar @ Kukki

...Petitioner

V/S

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Kulbir Singh Saini, Advocate
for the petitioner.

Mr. Arun Gupta, AAG Punjab.

DEEPAK MANCHANDA J. Oral

Through this second petition, the petitioner has prayed for grant of regular bail under Section 439 of Cr.P.C. in case bearing FIR No.143 dated 26.05.2022 registered under Sections 22, 61, 85 of NDPS Act, at Police Station Patran District Patiala, who is alleged to have possessed contraband of 3400 tablets of Tramadol Hydrochloride, 100 mg (weighing approx. 650 gms).

Learned counsel for the petitioner submits that the earlier bail application of the petitioner was dismissed as withdrawn vide order dated 03.05.2023 (Annexure P-3) and now present second bail application is being filed keeping in view the long incarceration and since there is no progress in trial. He again submits that after withdrawal of earlier bail application, till date out of 14 cited witnesses not even a single witness has been examined and as per *zimni* orders onlyailable warrants of the witnesses are being issued (Annexure P-4).

Learned counsel for the petitioner contends that the petitioner is in custody since 26.05.2022 and has been falsely implicated in the present case as the recovery is alleged to have effected from a transparent polythene bag, which was lying in the middle seat of the motorcycle, on which the co-accused Rakesh @ Rinku was riding the motorcycle and the petitioner was pillion rider. He also contends that the conscious possession of the alleged substance is not proved and same is debatable during the trial. The challan stands presented and charges have been framed and out of 14 witnesses none has been examined till date. He further contends that the co-accused namely, Rakesh @ Rinku has already been granted bail by this Court vide order dated 10.10.2023 passed in **CRM-M-43827-2023**. Learned counsel submits that there is no other case registered against the petitioner and the conclusion of the trial will take long time, therefore, the petitioner prays to be enlarged on bail.

Custody certificate filed by the respondent-State is taken on record. Even though learned State counsel on instructions from Investigating Officer ASI Labh Singh opposes the grant of regular bail to the petitioner, while submitting that the recovery is commercial in nature and the offence alleged against the petitioner is serious in nature. However, he does not dispute the fact that challan stands presented and charges have been framed and no witness has been examined till date and there is no other case against the petitioner.

I have heard learned counsel for the parties.

Petitioner is in incarceration since 26.05.2022.

It is not a case made out by the respondent-State that in case concession of bail is granted to the petitioner, he would hamper the course

of free and fair trial. Further, since the challan stands presented, charges have been framed and there are no other antecedents and the trial would take sufficient time to conclude, no useful purpose would be served in keeping the petitioner behind bars.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned on the following conditions.

- 1. *He shall appear before the Court on each and every date of hearing;*
- 2. *He shall not give any threat or intimidation to the prosecution witnesses;*
- 3. *He shall not indulge in any criminal activity;*
- 4. *He shall not leave India without prior permission of the Court.*

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

In case the petitioner violates any terms and conditions on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of his bail.

The petition is allowed.

20.10.2023
sapna

(DEEPAK MANCHANDA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>