

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

CRM-M-53804-2023 (O&M)

Date of Decision: 02.11.2023

Abhi Kumar @ Soni

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. J.S. Sandhu, Advocate for the petitioner.

Mr. Athar Ahmed, Deputy Advocate General, Punjab.

HARKESH MANUJA, J. (oral)

1. By way of present second petition filed under Section 439 of the Code of Criminal Procedure, 1973, petitioner is seeking grant of regular bail pending trial in FIR No.120 dated 18.07.2022 for the offence under Section 21(c) and later on added Sections 22(c), 27 of NDPS Act, 1985 registered at Police Station Kotwali, District Bathinda. The earlier bail petition was dismissed on 22.05.2023.

2. Learned counsel for the petitioner submits that the petitioner is a young boy of 28 years and he is behind the bars for more than 01 year and 03 months, investigation has already been concluded and challan stands filed. The alleged recovery of 24 vials of Cocrex, 24 vials of Omerex and 480 tablets of Carisoprodol was effected in the present case. He points out that no prosecution witness has been

examined, out of total 12 as cited by the prosecution. There is no other pending or registered case against the petitioner under the NDPS Act. Learned counsel for the petitioner prays for grant of regular bail to the petitioner.

3. On the other hand, learned State counsel opposes the prayer made in the present petition while submitting that this is a case of commercial recovery effected from the petitioner. He further submits that sufficient evidence has been found by the investigating agency so as to justify the implication of the petitioner.

4. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submission made on behalf of petitioner.

5. In the present case, the petitioner is behind the bars for more than 01 year and 03 months, whereas the investigation stands concluded. Even the charges stood framed in January, 2023, whereas for the past more than 10 months not even a single prosecution witness has been examined, out of total 12 as cited by the prosecution and the trial is likely to take long time. Thus, there is no justification to extend the incarceration of the petitioner for any further period. Moreover, there is no other pending or registered case against the petitioner under the NDPS Act.

6. Without commenting anything on the merits, lest it may prejudice the case of either side, the present petition is allowed and the

petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate.

7. However, nothing expressed hereinabove shall be construed as an expression on the merits of the case.

02.11.2023

Mangal Singh

Whether Speaking / Reasoned :
Whether Reportable :

(HARKESH MANUJA)

JUDGE

Yes
Yes

No
No