

CRM-M-60540-2022 (O&M)

218

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-60540-2022 (O&M)

Date of decision: July 13, 2023

Rupinder Singh @ Monu

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. L.M. Gulati, Advocate for petitioner.

Ms. Guramrit Kaur, DAG Punjab.

ARUN MONGA, J. (ORAL)

Petitioner, seeks bail in case bearing FIR No.0214 dated 07.09.2022, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station City Rajpura, District Patiala.

2. Per First Information Report (FIR), based on a secret information on 07.09.2022, petitioner was apprehended by the police and 700 tablets of tramadol hydrochloride were recovered from his possession. Petitioner was taken into custody on the spot itself.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. He submits that petitioner is not involved in any other case. He submits that Section 50 of NDPS Act has not been complied with. Investigating officer did not join any independent witness before search nor was search made before Gazetted officer. Petitioner was also not produced before any Magistrate. Learned counsel urges all of this bears testimony to the fact that alleged recovery is planted.

4. On the other hand, learned State counsel, on instructions from ASI Mahinder Pal opposes the bail petition. She submits that petitioner has committed a serious offence. Challan was filed on 17.12.2022 and on finding strong *prima facie* case, learned trial Court proceeded to frame charges against petitioner on 21.01.2023.

CRM-M-60540-2022 (O&M)

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. In the present case, petitioner is stated to be not involved in any other case. He is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/ or influence witnesses. There is no documentary evidence and it is more in the nature of FSL report *qua* contraband already filed in the trial Court to which accused has no access. There is no probability of tampering with evidence as the same has already been seized by the investigating agency. As regards witnesses, they are all official and therefore, they are unlikely to be influenced, even if there is any such apprehension by the prosecution.

7. Challan has been filed and trial has commenced. Petitioner is not required for custodial interrogation. Out of total 12 witnesses, none has been examined so far. Trial is likely to take long time. Whereas, petitioner has already been languishing in jail for the past more than 10 months in preventive custody, he being behind bars since 07.09.2022. Petitioner is stated to be 37-year old married person having two school going children to look after.

8. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

9. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

10. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

11. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of

CRM-M-60540-2022 (O&M)

hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.

12. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 13, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No