

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

CRM-M No.3214 of 2024 (O&M)

Date of decision : 29.01.2024

Gagandeep Singh @ Gagan

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Neeraj Jain, Advocate
for the petitioner.

Mr. Iqbal Singh Mann, DAG, Punjab

PANKAJ JAIN, J. (ORAL)

1 This petition has been filed under Section 439 Cr.P.C. for grant of regular bail in case F.I.R. No.45 dated 26.07.2023 registered under Sections 22/61/85 of NDPS at Police Station Rureka Kalan, District Barnala.

2 Learned counsel for the petitioner relies upon custody certificate produced by the State to submit that the petitioner has undergone actual custody of 6 months & 1 day and has clean antecedents. From the possession of the petitioner 70 strips of tramadol hydrochloride (containing 10 tablets) were recovered i.e. total 700 intoxicant tablets, which is non-commercial quantity. He further relies upon order dated 02.11.2023 passed in **CRM-M-53504 of 2023** whereby co-accused, namely, Manpreet Singh @ Judge has been extended the concession of regular bail observing as under :-

“2 Custody certificate has been filed. The same is taken on record.

3 As per the case of the prosecution a secret information was received on 26.07.2023 that the petitioner along with co-accused namely Gagandeep Singh @ Gagan are selling intoxicant tablets and if raid is conducted on the link road from village Rureka Kalan towards Tajoke,

they can be apprehended along with the contraband. It is being claimed by the prosecution that after police acted upon information, the petitioner was apprehended along with co-accused namely Gagandeep Singh @ Gagan. From the possession of the petitioner recovery of 270 tablets of Tramadol Hydrochloride was effected and from possession of co-accused Gagandeep Singh @ Gagan 700 tablets of Tramadol Hydrochloride were recovered. Petitioner is behind bars since 26.07.2023.

4 Learned counsel for the petitioner submits that de hors the merits, the petitioner is behind bars for more than 3 months & 7 days. The contraband recovered from him is 90.45 grams, which is less than the commercial quantity and thus rigours as contained in Section 37 of the NDPS Act, will not be applicable. He further submits that the investigation already stands concluded as the challan stands presented. Most of the cited witnesses being official witnesses, there can not be any apprehension that the petitioner shall tamper with the evidence and apart from that the petitioner has clean antecedents and has no prior history of having indulged in any crime.

5 Learned State counsel is not in a position to dispute the aforementioned factual assertions based on record. He, however, submits that keeping in view the seriousness of the allegations levelled against the petitioner, he does not deserve to be released on bail.

6 I have heard learned counsel for the parties and have gone through the records of the case.

7 Without commenting on the merits of the case and considering the incarceration suffered by the petitioner and the fact that there is no apprehension that the petitioner shall tamper with the evidence, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned. However, in addition to conditions that may be imposed by the Trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions :-

- (i) The petitioner shall not mis-use the liberty granted.*
- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.*
- (iii) The petitioner shall not absent himself on any date before the trial.*
- (iv) The petitioner shall not commit any offence while on bail.*
- (v) The petitioner shall deposit his passport, if any with the trial Court.*
- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number without*

permission of the trial Court.

(vii) The petitioner shall not in any manner try to delay the trial.

8 *Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.”*

3 Learned State counsel is not in a position to dispute the
aforementioned factual assertions based on record.

4 I have heard learned counsel for the parties and have gone
through the records of the case.

5 Without commenting on the merits of the case by granting
parity with co-accused and considering the incarceration suffered by the
petitioner, the present petition is allowed. The petitioner is ordered to be
released on bail on his furnishing bail/surety bonds to the satisfaction of the
Ld. Trial Court/Duty Magistrate, concerned. However, in addition to
conditions that may be imposed by the Trial Court/Duty Magistrate
concerned, the petitioner shall remain bound by the following conditions :-

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- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number without permission of the trial Court.*
- (vii) The petitioner shall not in any manner try to delay the trial.*

6 Needless to say that anything observed herein shall not be
construed to be an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

29.01.2024
Pooja sharma-I

Whether speaking/reasoned	Yes
Whether Reportable :	No