

212 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-11860-2024 (O&M)
Date of Decision: 12.03.2024

...Petitioner

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Hitesh Verma, Advocate for
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

HARPREET SINGH BRAR J. (Oral)

1. This is the first petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 32 dated 26.02.2023 registered under Sections 22(c), 29, 61, 85 of NDPS Act at Police Station Shambu, District Patiala.

2. Briefly, the facts are that on 26.02.2023, ASI Gurwinder Singh received a secret information to the effect that the accused persons namely Dudh Nath, Nand Kumar Singh, Ram Kripal, Dinesh Moriya, Vaishali Bus Owners and Vaishali Bus Manager were smuggling contraband in the form of pills in a bus bearing registration no. UP-43-AT-4038. Accordingly, the police party established a check-post at village Ali Majra, Main G.T. Road Ambala-Rajpura. Around 12:50 PM, the police party intercepted the said bus at the check-post and recovered multiple boxes of tablets alleged to be containing the salt Tramadol. Separate bundles and plastic bags of boxes containing 'Tramadol Prolonged Release Tablets IP, 100 mg, Tramatrust SR 100' were kept concealed at different places in the bus. A total of 25 boxes containing 50 strips, each strip containing 10 tables, were found under the front seat of the bus, while 25 boxes were recovered from the shelf above

the driver seat and 49 boxes were recovered from the tool box of the bus. In this way, a total of 49,500 intoxicant tablets, falling in the ambit of commercial quantity, were recovered from the said bus.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been nominated in the present FIR on the basis of disclosure statement made by the co-accused, while in police custody, which has no evidentiary value in the eyes of law. Moreover, similarly situated co-accused namely Rohit Pandey and Pawan Kumar have been granted the concession of regular bail by this Court vide order dated 31.01.2024 (Annexure P-2).

4. Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground that petitioner is involved in one more case and he was supposed to receive the alleged contraband recovered from the conscious possession of the co-accused.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that co-accused namely Rohit Pandey and Pawan Kumar have already been granted the concession of regular bail by this Court vide order dated 31.01.2024 (Annexure P-2) and out of total 17 prosecution witnesses, none has been examined so far and nothing has been recovered from the conscious possession of the petitioner. It is trite law that statement made under Section 67 of the NDPS Act cannot be used as confessional statement in trial of offence under the NDPS Act. Petitioner has been behind the bars since 10.06.2023 the trial is likely to take long time to conclude, therefore, no useful purpose would be served in keeping them behind the bars.

6. In view of the ratio of law laid down by Hon'ble Supreme Court in ***Prabhakar Tiwari Vs. State of UP and Anr.*** 2020(1) RCR (Criminal)

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831 and *Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others*

2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

7. In view of the above, the present petition is allowed and petitioner-Ranjeet Singh is directed to be released on bail subject to his furnishing personal and surety bonds to the satisfaction of the learned trial Court.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

12.03.2024

Ajay Goswami

(HARPREET SINGH BRAR)

JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No