



CRM-M-13987-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(269)

CRM-M-13987-2024
Date of decision:- 26.09.2024

Harmanjot Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Parminder Singh Sekhon, Advocate
for the petitioner.

Mr. Anil Bansal, DAG, Punjab
for State-respondent.

SUVIR SEHGAL, J. (ORAL)

1. This is the second petition filed under Section 439, Cr.P.C.
seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
93	12.08.2021	Sadar Ahmedgarh, District Malerkotla (earlier District Sangrur)	22 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (for short "the NDPS Act")

2. Version of the prosecution is that on the basis of secret
information, a motorcycle was intercepted, petitioner was arrested and
recovery of 700 tablets of Radol (Tramadol Hydrochloride) was effected
from him.



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3. Counsel for the petitioner submits that although the weight of the contraband allegedly recovered from the petitioner is 304 grams of Tramadol, but the petitioner has been falsely implicated. He submits that the mandatory provisions of the NDPS have been violated during the alleged search and seizure. A specific argument has been raised by him that no independent witness was associated at the time of alleged search and seizure of the petitioner. He submits that the first petition filed by the petitioner was withdrawn from this Court on 07.12.2023, Annexure P-4 and the petitioner has been in custody since 16.08.2021, but the trial is nowhere near conclusion.

4. *Per contra*, learned State counsel, upon instructions, has opposed the petition. He submits that as the contraband recovered from the petitioner falls within the ambit of commercial quantity, bar under Section 37 of the NDPS Act is attracted. He has filed Custody Certificate dated 24.09.2024, which is taken on record. As per his instructions, four out of sixteen prosecution witnesses have been examined.

5. Having heard counsel for the parties and considering their respective submissions, this Court is prima facie of the view that the allegation levelled against the petitioner would remain a subject matter of debate before the Trial Court. Petitioner has been in custody for the last almost 26 months and the trial is at nascent stage. Following the dictum of the Supreme Court in ***Dheeraj Kumar Shukla Versus The State of Uttar Pradesh, 2023 SCC Online SC 918***, this Court is of the view that the concession of bail deserves to be extended to the petitioner.



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6. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Trial Court/Area Magistrate/Duty Magistrate concerned.

7. Nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

26.09.2024

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No