



211 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32144 of 2024
Date of Decision: 12.07.2024

Ajay Kumar ...Petitioner
vs.
State of Punjab ...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Gurvinder Singh Aulakh, Advocate
for the petitioner.

Mr.M.S.Bajwa, Deputy Advocate General, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.0096 dated 02.08.2023 registered under Section 22 of NDPS Act, 1985, at Police Station Gidderbaha, District Sri Muktsar Sahib.

2. As per allegations levelled in the present case, on 02.08.2023, a police team was on patrol duty and on suspicion, one car was intercepted by the police. The car was driven by Ranjit Singh, co-accused and the petitioner was also sitting in the said car. Both of them were apprehended by the police and one transparent envelope containing intoxicant vials i.e. three vials of Chloropheniramine Maleate & Codeine Phosphate Syrup Cocrex Cough Syrup 100 ml having same batch No. VHL2301038 Mfg. Date 01/2023 Exp. Date 12/2024 and seven vials of Codeine Phosphate & Chloropheniramine Maleate Syrup CODISTAR cough syrup 100 ml having same batch No.A4JMW016,



Mfg. Date 02/2023 Ex.p Date 01/2025 were recovered from both the accused. The accused were carrying the contraband without any permit or licence. Consequently, the FIR was ordered to be registered against the present petitioner and Ranjit Singh, co-accused.

3. Learned counsel for the petitioner submits that the petitioner has been falsely involved in the present case. He was wrongly arrested in the present case on 02.08.2023 and is in custody for the last more than 11 months. He further contends that the challan has already been presented in the present case and since the case is based on the testimonies of the official witnesses, the petitioner is not in a position to influence the prosecution witnesses. Learned counsel for the petitioner has relied upon the order dated 29.05.2024, passed by a Co-ordinate Bench of this Court in CRM-M-11406-2024 titled as “Ranjit Singh Vs. State of Punjab” (Annexure P-6), wherein a Co-ordinate Bench has made the following observations, while granting bail to Ranjit Singh, co-accused:-

“4. The petitioner is accused of being in possession of 10 bottles 100 ml. each of Cocrex i.e. Codine Phosphate.

5. Counsel for the petitioner submits that in terms of the commercial quantity as defined under Section 2(viia) of 1985 Act, commercial quantity would mean any quantity greater than the quantity specified by the Central Government by notification in the Official Gazette. He submits that the quantity notified by the Central Government in the Official Gazette is 1 litre. Meaning thereby that for the quantity to be commercial, it has to be more than 1 litre. The quantity alleged to have been found to be in possession of the petitioner being exactly 1 litre cannot be said to be commercial and thus rigors of Section 37 would not be attracted. Challan already stands presented. The petitioner is behind bars for more than 9 months and 23 days and 2 out of 14 cited witness could be examined by now.



6. *Per contra, State Counsel opposes the bail plea by referring to the antecedents of the petitioner who is facing multiple prosecutions under the NDPS Act. However, he is not in position to dispute that so far as the present case is concerned, prima facie the quantity alleged to have been recovered from the petitioner would be intermediate.*

7. *I have heard counsel for the parties and have gone through records of the case.*

8. *Without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioner and the fact that the investigation already stands concluded and Challan stands presented, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.”*

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that one more FIR i.e. FIR No.49 dated 16.03.2022 under Sections 323, 458, 324, 148, 149 of IPC, Police Station Gidderbaha has also been registered against the present petitioner. However, he admits that the petitioner is on bail in the said case. Learned State counsel submits that in the present case, serious allegations have been levelled against the present petitioner and the petition deserves to be dismissed by this Court.

5. I have heard the learned counsel for the parties and perused the record.

6. In the present case, the petitioner and Ranjit Singh, co-accused were apprehended by the police party, while they were carrying the contraband. Vide order dated 29.05.2024 (Annexure P-6), Ranjit Singh, similarly placed co-accused has already been granted the concession of bail by this Court. Consequently, the petitioner is at par with Ranjit Singh and his further custody



will not serve any meaningful purpose. Even though, one more case was ordered to be registered against the present petitioner, but the petitioner is on bail in the said case.

7. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

12.07.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

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