

2024:PHHC:128199



338 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-39750-2024 (O&M)
Decided on:-26.09.2024

Parminder Singh

....Petitioner..

vs.

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Lakhwinder S. Sidhu, Advocate,
for the petitioner.

Mr.Sukhsandesh Singh Chahal, AAG, Punjab.

HARKESH MANUJA J. (Oral)

1. By way of present petition filed under Section 439 CrPC, prayer has been made for grant of regular bail pending trial in case FIR No.152 dated 07.11.2021 registered under Section 22 of the NDPS Act, 1985, at P.S. Bassi Pathana, District Fatehgarh Sahib.

2. In the present case, the allegations against petitioner are of alleged recovery of green colour plastic bag containing 1100 intoxicants loose capsules and intoxicants tablets of Tramadol Hydrochloride 100 mg total 10 strips i.e. 100 tablets.

3. Learned counsel for petitioner submits that the petitioner was arrested in the aforementioned FIR on 07.11.2021 and thereafter granted interim bail vide order dated 17.12.2021, awaiting the report of FSL, however, the petitioner failed to appear before trial Court and was thereafter

again arrested on 21.03.2024 and since then he is behind the bars. Learned counsel also submits that challan in the present case was filed way back on 08.08.2022 and charges have been framed on 13.08.2024 and so far none of the prosecution witnesses has been examined and now the next date fixed is 23.10.2024, thus, trial is likely to take some time. He further submits that the FSL report shows that only 10 loose capsules of green colour were sent for the chemical examination and thus, it cannot be presumed that the entire quantity of 1100 loose capsules were containing intoxicants of similar nature. In this regard, learned counsel places reliance on the judgments passed by this Court in CRM-M-41434-2019 titled as ***“Roopa Rani Vs. State of Punjab” 2020(1) Law Herald (P&H) 507 and Crl. Appeal No.556-DBA of 1999 titled as “State of Punjab Vs. Dharam Singh” 2010(3) RCR (Criminal) 94.***

4. On the other hand, learned State counsel opposes the prayer made herein while submitting that present is a case of recovery of huge quantity of contraband which falls under commercial quantity. He refers to report of FSL as well. Besides it, he also submits that the petitioner was involved in two other cases, though, not involving the provisions of NDPS Act.

5. I have heard learned counsel for the parties and have gone through the paper-book. I find substance in the submissions made on behalf of the petitioner.

6. In the present case, though the alleged recovery was of 1100 capsules of green colour containing Tramadole Hydrochloride, however, out of the loose quantity of 1100 capsules, admittedly, only ten capsules were sent to FSL whereas rest of 1090 capsules were sent to Malkhana and have

not been got chemically examined by Investigating Agency so far.

7. Considering the fact that the petitioner has already suffered incarceration for a period of more than 6 months now and none of the prosecution witnesses has been examined so far, despite the fact that the challan was filed way back on 08.08.2022, I do not find any justification to extend the incarceration of the petitioner as there is no prima facie evidence on record to show that all the capsules recovered were containing intoxicant.

8. In view of the above, but without commenting upon merits of the present petition, the same is allowed. The petitioner is ordered to be released on bail subject to his furnishing adequate bail bonds / surety bonds to the satisfaction of the Trial Court/Illaq Magistrate/Duty Magistrate concerned.

9. It is made clear that this order may not be construed as an expression of opinion on merits of the case.

26.09.2024
sonika

(HARKESH MANUJA)
JUDGE

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