

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

CRM-M-48211-2022(O&M)

Date of decision : 05.02.2024

Harvinder Singh @ Kala

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. PKS Phoolka, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana, for the respondent.

MAHABIR SINGH SINDHU, J.

(1) Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail pending trial to the petitioner in FIR No.46 dated 03.03.2016, under Sections 21 (c) and 22 (c) of Narcotic Drugs & Psychotropic Substances Act, 1985, registered at Police Station, Kalan Wali, District Sirsa.

(2) Allegations are that co-accused of petitioner namely Pargat Singh and Jasbir Singh were found in conscious possession of 25 intoxicant bottles of REXCOF syrup and 35 bottles of COREX syrup without any permit or licence. On interrogation, they made disclosure that they had purchased the contraband from the petitioner for consideration of Rs.200/- per bottle.

(3) Learned counsel for the petitioner contends that there is no recovery against the petitioner nor he was named in the FIR. His name figured in the disclosure made by co-accused, who already stands acquitted by the learned trial Court vide judgment dated 18.08.2018. Also contends that the Coordinate Bench, on 22.08.2023, granted interim bail to petitioner and the order passed in the main petition reads as under:-

“Contends that petitioner is in custody since 29.06.2022 and other co-accused have already been acquitted by learned trial Court vide judgment dated 18.08.2018.

Learned State counsel seeks time to verify as to whether the aforesaid judgment has attained finality?

Posted on 20.09.2023.

In the meanwhile, petitioner be released on interim bail in the present case till the next date of hearing on his furnishing bail and surety bonds subject to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned..”

(4) Learned Counsel for the petitioner contends that in compliance of aforesaid order, petitioner is regularly appearing before the Court below and there is no apprehension or allegation that he is likely to misuse the concession of bail in any manner.

(5) Learned State Counsel on instructions from quarter concerned has acknowledged the above factual position.

(6) Heard both sides and perused the paper-book.

(7) Keeping in view the facts that petitioner is fully cooperating before the Court below and there is no allegation that in case he is granted bail pending trial, he will misuse the concession in any manner; thus, in such a scenario, sending him in custody at this stage would not serve any purpose.

- (8) Consequently, the present petition is allowed. Interim bail granted to the petitioner, vide order dated 22.08.2023, is made absolute. He shall be admitted to bail on his furnishing bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
- (9) Petitioner shall fully co-operate with the learned trial Court without seeking any unnecessary adjournments.
- (10) The above observations may not be construed as an expression of opinion on the merits of the case.
- (11) It is clarified that in case there is any misuse of concession of bail on the part of petitioner, State would be at liberty to move an appropriate application for recalling of this order.
- (12) Disposed off accordingly.
- (13) Pending application(s), if any, shall also stand disposed off.

05.02.2024
monika

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes