

CRM-M-51449-2023

Date of Decision:01.02.2024

Abdul Rahim

...Petitioner

VS.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S. ShekhawatPresent : Mr. Lalit K. Yadav, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has moved the present petition under Section 439 Cr.P.C. with a prayer to grant the concession of regular bail to him in case FIR No. 524 dated 06.09.2022 under Sections 22, 29 and 27-A of the Narcotic Drugs & Psychotropic Substances Act, 1985 (hereinafter to be referred as the 'NDPS Act') and 201 IPC (added later on) registered at Police Station Israna, District Panipat (Annexure P-1).

2. The brief facts of the case are that on 06.09.2022, ASI Sandeep alongwith a police party was present at bus stand village Shahpur and a secret informer came and informed that Kaushal son of Ranbir indulged in selling narcotic injections. On that day also, he was standing near village secretariat with an intention to sell narcotic injections and was holding a polythene bag of narcotic injections in his hand. If the raid was conducted immediately, Kaushal could be found at the spot and recovery could be effected from him. On this, a

raid was conducted and Kaushal was apprehended at the spot with 29 strips of Pentazocine Lactate injections and 1 strip of Pentazocine Lactate contained five injections and as such total 145 ML of Pentazocine Lactate were recovered from him.

3. Learned counsel for the petitioner contends that the petitioner was not named in the FIR nor was found at the place of recovery. In fact, the petitioner was named by Raju Shukla, co-accused in his disclosure statement. Learned counsel further contends that as per the case of the prosecution, 900 injections of PENTAZOCINE LACTATE have been recovered from the present petitioner and the quantity of contraband recovered from each injections is 30 mg per injections. Thus, total quantity of contraband recovered from the present petitioner was about 27 grams, which falls within the ambit of 'non-commercial quantity'. Learned counsel further contends that the petitioner was arrested in the present case on 06.09.2022 and no other case under NDPS Act has been registered against him.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground the petitioner was involved in a serious crime and does not deserve the concession of bail. However, she admits that the quantity of contraband recovered from the present petitioner was 'non-commercial in nature'.

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

6. In the present case, the petitioner was ordered to be arrested on 06.09.2022 and is in custody for the last more than 01 year and 4 months. Apart from that, the prosecution has placed reliance on 31 witnesses. However, no witness has been examined so far. Thus, the trial Court may take quite a long

time in concluding the trial and further custody of the petitioner will not serve any meaningful purpose.

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

- (i) *The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.*
- (ii) *The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) *The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) *The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) *The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*
- (vi) *In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.*
- (vii) *The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.*

01.02.2024

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(N.S.SHEKHAWAT)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No