

109+215 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-62142-2023 (O&M)
Decided on:-13.03.2024

Gagandeep Singh @ GhudduPetitioner..

vs.

State of PunjabRespondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. L.S. Sekhon, Advocate,
for the petitioner.

Mr. Kewal Singh, Addl. A.G., Punjab.

HARKESH MANUJA J. (Oral)

CRM-8330-2024

Application is allowed as prayed for. Recovery memo (Annexure A-1) is taken on record, subject to all just exceptions. Be tagged at appropriate place.

Main case

1. By way of present petition filed under Section 439 of the Code of Criminal Procedure, 1973, prayer has been made for grant of regular bail to the petitioner, pending trial in case FIR No.164 dated 13.08.2023, registered under Section 22 of the NDPS Act, 1985, at Police Station City Jagraon, District Ludhiana (Rural).
2. In the present case, the petitioner has been implicated against the alleged recovery of 850 tablets of “*Taramadol Hydrochloride*” in the form of 85 strips of 10 tablets each.
3. Learned counsel for the petitioner submits that even as per the

recovery memo prepared by the Investigating Agency, the alleged recovered 85 strips of Tramadol Hydrochloride did not contain any batch number (being erased) and thus, 01 strip of 10 tablets, which was sent to FSL for examination could not have been termed to be a representative sample as such, the petitioner deserves the concession of regular bail. He placed reliance upon judgments passed by this Court in CRM-M-51893-2023 titled as "Sema Singh @ Ronki vs. State of Punjab", decided on 19.12.2023 and CRM-M-1921-2024 titled as "Tarun Bhatia @ Cheenu vs. State of Punjab" decided on 01.03.2024.

3. The prayer made herein has been opposed at the instance of learned State counsel while referring to the recovery involved in the present case which is of commercial quantity as 850 tablets of Tramadol Hydrochloride were recovered from the petitioner, thus, he does not deserve the concession of regular bail.

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

5. In the present case, investigation already stands concluded with the filing of challan, followed by framing of charges and so far only 02 witnesses have been examined out of total 11 witnesses cited by the prosecution. The petitioner is in custody for the past almost 07 months.

Moreover, a perusal of the recovery memo shows that the alleged recovery was of 850 intoxicant tablets (85 strips) of Tramadol Hydrochloride with no batch number (erased), whereas the sample which was sent to FSL was only 01 strip containing 10 tablets, that too, with no

batch number.

6. Considering the fact that the alleged recovery made from the petitioner did not contain any batch number; only one strip containing 10 tablets being sent to the FSL cannot be said to be considered as representative sample unless all the recovered intoxicant tablets were mixed and one sample was prepared and sent for chemical examination, thus, I do not find any reason to extend the incarceration of the petitioner any further

7. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Illaqa Magistrate.

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

13.03.2024
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(HARKESH MANUJA)
JUDGE

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