



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

204/2

CRM-M-64910-2023 (O&M)**Date of Decision: 12.12.2024**

Harnek Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**Present:** Mr. S.S. Gill, Advocate for the petitioner.

Mr. Puru Jarewal, AAG, Punjab.

MAHABIR SINGH SINDHU, J.

Present petition has been filed, under Section 439 of the Code of Criminal Procedure, 1973 for seeking bail pending trial in FIR No. 116 dated 12.09.2023, registered under Sections 22 and 29 of Narcotic Drugs and Psychotropic Substances Act (for short 'NDPS Act'), 1985, at Police Station Banur, District Patiala.

2. Allegations are that 500 intoxicant capsules make *proxywel spas* were recovered from the petitioner.

3. Learned counsel for the petitioner contends that recovery of contraband effected from the petitioner would fall in the category of non-commercial quantity, in view of FSL report (P-2). Further contends that petitioner was arrested in the present case on 12.09.2023 and after remaining in custody for about 08 months, was granted interim bail by this Court on 13.05.2024. Also contends that in pursuance of the aforesaid order, he is regularly appearing before learned Special Court and there has been no



progress of trial except examination of only one witness in part. Again contends that there is no allegation that petitioner is likely to misuse the concession or hamper the proceedings in any manner.

4. *Per contra*, learned State Counsel, on instructions from quarter concerned, has fairly conceded the above factual position and submits that petitioner is regularly appearing before learned Special Court. Also acknowledged that petitioner has not misused the concession of interim bail granted by this Court on 13.05.2024.

5. Heard learned counsel for both the sides and perused the paper book.

6. This Court granted interim bail to the petitioner on 13.05.2024 in the following manner:-

“ XXXXXXXX

Contends, inter alia, that in view of the FSL report (P-2), total contraband recovered from the petitioner would be less than commercial.

Faced with the above situation, learned State counsel seeks time to have further instructions in the matter.

Posted 30.07.2024.

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

To be heard alongwith CRM-M-63441-2023 on the date already fixed.”

7. Learned State counsel has duly acknowledged that petitioner is regularly appearing before learned Special Court and there is no allegation that in case, interim bail is made absolute, he is likely to misuse the concession or hamper the proceedings in any manner. Only examination -in-chief of one prosecution witness has been recorded after grant of interim bail to petitioner and as such there has been virtually no progress of trial. In such a scenario, sending the petitioner to custody at this stage would not serve

any purpose.



8. Consequently, present petition is allowed. Interim bail granted to the petitioner, vide order dated 13.05.2024, is made absolute. He shall be admitted to bail on furnishing bail/surety bonds to the satisfaction of learned Special Court/Chief Judicial Magistrate/Duty Magistrate concerned.
9. Petitioner shall appear on each & every date of hearing and to fully co-operate with learned Special Court without seeking any unnecessary adjournment(s).
10. The above observations be not 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 by the petitioner, State would be at liberty to move an appropriate application for recalling of this order.

Pending application(s), if any, shall also stand disposed off.

12.12.2024
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

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