

CRM-M-38665 of 2023 (O&M)

2025:PHHC:016465



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

CRM-M-38665 of 2023 (O&M)

Date of decision: 04.02.2025

Abhishek

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Harsh Mehla, Advocate,
for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

NAMIT KUMAR, J.

1. Present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case arising from FIR No.504 dated 05.12.2022, registered under Sections 22(b) and 61 of the Narcotic Drugs and Psychotropic Substances Act, at Police Station Gandhi Nagar, District Yamuna Nagar.
2. FIR in the present case was registered with the allegations that on the basis of secret information, on 05.12.2022, co-accused of the petitioner, namely Deepak alias Toni son of Jaswant resident of Farakpur was apprehended along with narcotic substance i.e. 352 capsules containing paracetamol dicyclomine hydrochloride & tramadol hydrochloride by Sub Inspector Mehar Lal. During interrogation, he suffered disclosure statement naming petitioner as co-accused. On 08.06.2023, petitioner was arrested and Section 27-A of the NDPS Act was added.



3. Learned counsel for the petitioner has contended that the petitioner is innocent and has been falsely implicated in the present case. He further contended that petitioner was not present at the time of alleged offence and he has been named in the disclosure statement of his co-accused Deepak alias Toni, which has no evidentiary value in the eyes of law. He further contended that the alleged narcotic substance recovered from co-accused Deepak alias Toni falls under “intermediate quantity”. He further contended that main accused Deepak @ Toni has been granted the benefit of default bail under Section 167(2) Cr.P.C. by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, vide order dated 21.02.2023. He further contended that petitioner remained in custody for more than 08 months. Petitioner was granted interim bail by this Court on 16.08.2023 and in pursuance to the said order, he is regularly appearing before the trial Court. He further contended that investigation in the present case is complete; challan was presented on 09.08.2023; out of total 20 prosecution witnesses only one witness has been examined so far; now the case is fixed for 11.02.2025. Learned counsel contended that trial in the present case may take a considerable time to conclude, therefore, no purpose would be served by keeping the petitioner behind bars.

4. Per contra, learned State counsel opposed the prayer of the petitioner for grant of regular bail. She submitted that petitioner is involved in two more cases being FIR No.53 dated 04.02.2018 registered under Sections 148, 149, 323, 325, 427, 452, 506 IPC and Section 3(R) of the Scheduled Castes and Scheduled Tribes (Prevention



of Atrocities) Act at Police Station Farakpur, Yamuna Nagar and FIR No.525 dated 22.12.2022 registered under Sections 21C/61/85 and 29 NDPS Act at Police Station Sadar Yamuna Nagar, wherein he is on bail. Learned State counsel, on instructions from quarter concerned, has fairly acknowledged the above factual position and submits that petitioner is regularly appearing before the trial Court and he has not misused the concession of interim bail in any manner.

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

6. The order dated 16.08.2023, granting interim bail to the petitioner reads as under: -

“Contends inter alia that petitioner is in custody since 08.06.2023 and the challan has already been presented on 09.08.2023. Main accused from whom the alleged recovery of contraband was effected (non-commercial) has already been granted bail by the learned trial Court (P-3).

Learned State counsel will verify other criminal case(s) pending against the petitioner and status thereof.

Post on 13.09.2023.

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

7. Learned State counsel has acknowledged that petitioner is regularly appearing before the learned trial Court and there is no allegation that in case, interim bail is made absolute, he is likely to misuse the concession and/or hamper the proceedings in any manner.



likely to take a considerable time. In such a scenario, sending the petitioner to custody at this stage would not serve any purpose. She also submitted that Section 27-A of the NDPS Act has also been added in the FIR lateron.

8. Consequently, present petition is allowed. Interim bail granted to the petitioner vide order dated 16.08.2023 is made absolute. He shall be admitted to bail on the same bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned. Registry is directed to do the necessary addition of Section 27-A of the NDPS Act in the petition accordingly.

9. Petitioner shall appear on each and every date of hearing and fully co-operate with learned trial 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, the State would be at liberty to move an appropriate application for recalling of this order.

12. Pending application(s), if any, also stand(s) disposed of.

04.02.2025
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No