



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

234

CRM-M-61027-2023 (O&M)
Date of Decision:- 18.03.2025

ONKAR CHAND

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJIV BERRY

Present : Mr. Vishal Thakur, Advocate for the petitioner.

Mr. Ankit Grewal, DAG Punjab.

SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under Section 439 CrPC for grant of regular bail to the petitioner in the following case :-

FIR No.	Dated	Sections	Police Station
76	26.08.2023	22 NDPS Act	Mehtiana, District Hoshiarpur

2. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He contends that the petitioner happens to be the innocent driver of the vehicle and the co-accused travelling in the said car was carrying the contraband and was apprehended by the police. He further contends that the petitioner has



been falsely implicated in this case despite the fact that no recovery was effected from him. He submits that as per the case of prosecution, the recovery of contraband was effected from the exclusive possession of the co-accused, which he was carrying in a polythene envelope. He submits that the petitioner has no criminal antecedents and is in custody since 26.08.2023. Challan has already been presented in Court and out of 09 witnesses cited by the prosecution, none has been examined till date, thus, prays for grant of concession of bail to the petitioner.

3. *Per contra*, learned State counsel while referring to the short reply filed by the State has opposed the petition by submitting that in the vehicle driven by the petitioner, recovery of 960 tablets of Tramadol Hydrochloride was effected, which falls within the purview of commercial quantity. Hence the petitioner is not entitled to the concession of bail.

4. Heard learned counsel for the parties and perused the record.

5. After considering the rival contentions and perusing the record, it transpires that the instant FIR was registered on the allegation that on 26.08.2023, the police party apprehended one car, which was being driven by the present petitioner and the person sitting besides the petitioner carrying a plastic envelope in his hand, tried to run away from the spot but was apprehended and later identified as Sandeep Kumar and from the search of the polythene envelope, 960 tablets of Tramadol Hydrochloride were recovered and the petitioner along with co-accused Sandeep Kumar were arrested at the spot.

6. During the course of arguments, it has been highlighted by



learned counsel for the petitioner that although the petitioner was driving the vehicle at the time of the said recovery, but even as per the case of prosecution, the said recovery had been effected from the exclusive possession of the co-accused Sandeep Kumar as he was carrying the polythene envelope in his hand when he tried to run away from the spot. Admittedly, no recovery of contraband was effected from the conscious possession of the petitioner. The petitioner is not having any criminal antecedents and is in custody since 26.08.2023. After the completion of investigation, challan has been presented in Court, wherein the prosecution has cited 9 witnesses but none has been examined till date. The criminal liability, if any, of the petitioner, could only be determined after the conclusion of trial, which may take sufficient long time. In the circumstances, no purpose would be served by detaining the petitioner any longer.

7. Consequently, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Judge on Duty/Duty Magistrate concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

8. It is further made clear that in case the petitioner is found involved in any case under NDPS Act, after his release on bail, it will be open for the prosecution to move an application for cancellation of his bail



in accordance with law.

9. Any observation made above shall not be construed as opinion of this Court on the merits of the case.
10. Pending miscellaneous application(s), if any, stands disposed of.

(SANJIV BERRY)
JUDGE

18.03.2025
S.Sharma(syr)

i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No