

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. M- No. 29634 of 2014 (O&M)

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Date of decision : 05.02.2015

Jatinder Bedi @ Sunny

.....Petitioner

Versus

State of Punjab

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Dilpreet Singh Gandhi, Advocate
for the petitioner.

Mr. P.S. Grewal, DAG, Punjab

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No. 89 dated 17.04.2013 registered under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act') at Police Station Nakodar, District Jalandhar.

Recovery of 275 grams of Diacetylmorphine has allegedly been made from him. It is contended that the petitioner, who is a young boy of 25 years, has been falsely implicated in the case. There is no other case registered against him and he has been in custody since 17.04.2013. On an earlier occasion, it had been informed that the petitioner is unwell and bail was prayed for on medical grounds as well. However, learned counsel for the petitioner fairly concedes that as of today, the petitioner is recovered and does not press bail on medical grounds. He, however, vehemently contends that quantity of the narcotic allegedly recovered from him is marginally over the commercial quantity as specified in the Act i.e. 250 grams. In such a situation, the concession of bail pending trial has been granted by

this Court. Reference is made to order dated 21.01.2014 in CRM No. M-1252 of 2014 (*Neelam versus State of Punjab*)

Learned counsel for the State while contesting this petition submits that small quantity of Diacetylmorphine is 5 grams as per the Schedule of the Act. In the present case, the recovery is 30 grams over and above the commercial quantity of 250 grams. Out of 9 prosecution witnesses, 5 have already been examined and the matter is fixed before the trial Court on 10.02.2015.

I have heard learned counsel for the parties. As per the Schedule of the Act, 5 grams of Diacetylmorphine is specified as small quantity and 250 grams is specified as commercial quantity. 275 grams of Diacetylmorphine is alleged to have been recovered from the petitioner i.e. 25 grams over and above the commercial quantity.

Learned counsel for the petitioner also refers to International Pharmacopoeia to say that the quantity in question would be marginally above the commercial quantity and, hence, the petitioner not being the accused or convicted in any other case is entitled to concession of bail, Section 37 of the Act not being attracted.

In my considered opinion, 25 grams of Diacetylmorphine cannot be termed to be marginally in excess of the specified commercial quantity. In the case of *Neelam* (supra), the petitioner therein was a lady having young children and the same cannot be said to be a precedent.

Keeping in view the facts and circumstances of this case, it is not considered just and expedient to allow the concession of bail pending trial to the petitioner.

Consequently, this petition is dismissed. However, keeping in view the fact that the petitioner is incarcerated since 17.04.2013, the trial Court is directed to expedite the trial in this case and conclude the same preferably within six months from the date of receipt of certified copy of this order.

February 05, 2015
rts

(LISA GILL)
JUDGE