

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

**CRM-M-34779-2019**  
**Date of decision: 04.10.2019**

**Sutikshan Kalia**

**...Petitioner**

**Versus**

**State of U.T., Chandigarh**

**...Respondent**

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. A. D. S. Sukhija, Advocate  
for the petitioner.

Mr. Amit Kumar Goyal, Addl. P.P., U.T., Chandigarh.

Mr. A. D. Singh, Deputy Superintendent,  
Model Jail, Chandigarh.

**ARVIND SINGH SANGWAN, J. (Oral)**

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 198 dated 12.12.2016, registered under Section 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 at Police Station Maloya, Chandigarh.

Learned counsel for U.T., Chandigarh, on instructions from the Deputy Superintendent, Model Jail, Chandigarh, who is present in Court in compliance with the order dated 03.10.2019, submits that the petitioner was acquitted in another FIR on 29.07.2019 and thereafter, he was released from the jail and he again surrendered on 01.08.2019.

However, the aforesaid fact is not properly reflected in the custody certificate dated 02.10.2019. The Deputy Superintendent, Model Jail, Chandigarh tenders apology for the said mistake and the same is

accepted.

Learned counsel for the petitioner submits that as per the allegations in the FIR, the police party apprehended the petitioner, who was driving a car, and 22 strips of Lomiotal *Diphenoxylate Hydorchloride* and *Altroline Sulphate* containing 60 tablets each, 24 vials containing Corex Cough Syrup, 40 strips containing 10 tablets of Charisma, 25 injections of *Pheniramine Maleate* containing 10 ml each and 25 injections of *Buprenorphine* containing 2 ml each, were recovered from the petitioner.

Learned counsel for the petitioner further submits that it will be a debatable issue whether the proper procedure as prescribed in the NDPS Act was followed while effecting recovery or not as earlier the sample was sent to FSL and later on, the prosecution moved an application for sending the entire case property to FSL and the said application was allowed by the trial Court. The petitioner has filed a petition before this Court bearing CRM-M-47047-2018 challenging the said order of the trial Court, in which, passing of the final order has been stayed, vide order dated 25.10.2018.

Learned counsel for the petitioner further submits that the petitioner is in judicial custody since 14.12.2016 except for two days when he was released as noticed above and, therefore, custody period of the petitioner is more than 02 years and 09 months and the conclusion of the trial is likely to take a long time.

As noticed above, learned counsel for the U.T., Chandigarh has not disputed the custody period of the petitioner.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the custody period of the petitioner and also in view of the fact that

aforesaid petition bearing CRM-M-47047-2018 has been filed by the petitioner, in which, passing of the final order has been stayed by this Court and it will take a long time in conclusion of the trial, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

04.10.2019

*Waseem Ansari*

(ARVIND SINGH SANGWAN)  
JUDGE

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*