

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

203

CRM-M-49222-2019

Date of decision: 12.03.2020

Sewa Ram

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. K.K.Saini, Advocate for the petitioner.

Mr. Arun Kaundal, DAG, Punjab
for respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C') for grant of regular bail in case FIR No. 153 dated 22.08.2019 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") at Police Station Sadar, Nabha, District Patiala.

Briefly stated the facts relevant for disposal of the petition are that on 26.08.2019, Police party headed by ASI Chamkaur Singh was present near Chungi PPS School for patrolling duty and prevention of crime. Secret information was received that accused- Sewa Ram, who is habitual of selling intoxicant tablets, would come on his motorcycle and if nakabandi was conducted he could be apprehended with intoxicating tablets in heavy quantity. Written information was sent to the police station on the basis of which above said FIR was registered. Nakabandi was accordingly conducted and accused-Sewa Ram was apprehended. On search as per the prescribed procedure,

recovery of 658 loose intoxicant tablets was made from his possession. As per the FSL report the tablets were found to contain Tramadol Hydrochloride and total weight of the tablets was 304.94 grams which fell under the category of commercial quantity.

The petitioner, who is in custody since his arrest on 22.08.2019, has filed present petition for grant of regular bail.

Learned State counsel has appeared and opposed the petition. However no reply has been filed by the State.

I have heard learned counsel for the petitioner and learned State counsel and gone through the record.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case after his arrest from his house. Nothing was recovered from his possession. The trial is likely to take long time. No useful purpose will be served by keeping the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State counsel has argued that the petitioner is accused of having kept commercial quantity of the psychotropic substance in his conscious possession in breach of the provisions of Section 22 of the NDPS Act. Provisions of Section 37 (1) (b) of the NDPS Act are attracted to the case. The petitioner is also involved in another case under the NDPS Act. In view of the gravity of the accusation, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

The legislature with a view to check the menace of drugs amended the NDPS Act by incorporating the stringent provisions of

Section 37. Under the mandatory conditions provided in Section 37 before granting bail the court is to be satisfied that there are reasonable grounds for believing that the accused is not guilty of the offence and that he is not likely to commit offence under the NDPS Act while on bail. Hon'ble Supreme Court has while quashing the orders granting bail cautioned the courts about the mandatory requirements of Section 37 of the NDPS Act. Reference in this regard may be made to ***Union of India versus Ram Samujh, (1999) 9 SCC 429; Narcotics Control Bureau, Chennai versus R. Paulsamy, (2000) 9 SCC 549; Union of India versus Ashok Kumar Jaiswal 2010 (3) SCC (Crl.) 604; Union of India versus Ishdan Seikh @ Ishdan Sk, (SC) 2016 All SCR (Crl.) 1561 and Union of India versus Niyazuddin Sk and another 2017 (3) Apex Court Judgments (SC) 328.*** In ***State of Kerala versus Rajesh 2020 (1) RCR (Crl.) 818*** Hon'ble Supreme Court has observed that liberal approach in the matter of bail under the NDPS Act is indeed uncalled for.

In the present case commercial quantity of Tramadol Hydrochloride was allegedly recovered from possession of the petitioner. The petitioner is involved in another case under the NDPS Act. There are no reasonable grounds to hold prima facie that the petitioner is not guilty of the alleged offence and that the petitioner is not likely to commit any offence under the NDPS Act while on bail. The trial can be ordered to be expedited. In view of the nature of the accusation, prima facie evidence in support of the same, applicability of Section 37 (1) (b) of the NDPS Act and the fact that the trial can be expedited, I am of the considered view that the petitioner does not

deserve the concession of regular bail. Therefore, the petition is dismissed.

In view of the observations made by Hon'ble Supreme Court in *Doongar Singh Vs. State of Rajasthan 2018 (1) RCR Criminal 256, Thana Singh Vs. Central Bureau of Narcotics 2013(1) R.C.R(Criminal) 861 and State of U.P Vs. Shambhu Nath Singh: 2001(2) RCR (Criminal) 390*, the Trial Court is directed to expedite the trial and expeditiously conclude recording of prosecution evidence by conducting trial in session by giving block of dates and issuing coercive process against the prosecution witnesses, if so required.

12.03.2020

Rajeev (rvs)

(ARUN KUMAR TYAGI)
JUDGE

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