

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

CRM-M-5808-2021
Date of Decision:-12.07.2021

Pardeep Kumar @ Babbu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Krishan Singh Dadwal, Advocate
for the petitioner.

Mr. H.S. Grewal, Addl. A.G. Punjab.

KARAMJIT SINGH, J. (Oral)

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

This is a second petition under Section 439 Cr.P.C. for grant of
regular bail to the petitioner in a case bearing FIR No.55 dated 28.4.2019
registered under Section 22 of NDPS Act at Police Station Division No.1,
Ludhiana.

As per the prosecution version 576 strips each having 8
capsules of Tramadol Hydrochloride, Dicyclomine Hydrochloride &

Chorpheniramine Maleate of Simplex C+ company were recovered from the possession of the petitioner on the basis of secret information by the police on 28.4.2019.

Learned counsel for the petitioner contended that the petitioner has been falsely implicated in this case. Learned counsel further contended that even otherwise the alleged recovery is vitiated as no batch number, date of manufacturing and date of expiry of the recovered strips of medicine were mentioned in the recovery memo by the Investigating Officer and that there was unexplained delay of more than one month in sending the samples to FSL for their analysis. The counsel for the petitioner next submitted that furthermore the petitioner is in custody for the last more than 2 years and 2 months and due to restricted working of Courts, the trial is not going ahead. The counsel for the petitioner has referred to **CRM-M-3001-2021** titled as **Jaskaran Singh @ Gauri vs. State of Punjab** decided on **9.2.2021** in which the recovery of 5500 tablets of Clovidol-100SR was effected and regular bail was granted as the accused therein had undergone 10 months and 28 days in custody and he was not facing any other criminal case.

On the other hand, learned counsel for the State contended that the case involves commercial quantity of contraband and as such he prayed for dismissal of the bail application. However, at the same time, the learned State counsel has not denied the fact regarding custody period of the petitioner. Also he has not refuted the fact that no other criminal case is pending against the petitioner.

I have considered the submissions made by the counsel for the parties.

Undoubtedly Section 37 of the NDPS Act prescribes rigorous conditions for release of a person on bail during trial in case relating to recovery of commercial quantity of contraband.

The counsel for the petitioner has challenged the alleged recovery on two grounds as discussed above. At this stage, it will not be advisable and proper for this Court to comment on the merits of the case as the points raised by the counsel for the petitioner are debatable.

Admittedly, the trial in the present case is going at a very slow pace and till date only three PWs out of total fourteen PWs have been examined, on account of Covid-19 situation. As per the custody certificate, the petitioner has undergone 2 years, 2 months and 9 days in custody and no other criminal case is pending against him. The trial is not likely to be concluded in the near future.

Hence, without expressing anything on the merits of this case, the present petition is allowed and the petitioner is ordered to be released on regular bail upon furnishing requisite bail/surety bonds to the satisfaction of trial Court/Duty Magistrate, Ludhaina.

(KARAMJIT SINGH)
JUDGE

12.07.2021
Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No