

CRM-M-22474-2021 (O&M)

THROUGH VIDEO CONFERENCE

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

CRM-M-22474-2021 (O&M).

Decided on: July 30, 2021.

Swaran Singh

.. Petitioner

VERSUS

State of Haryana

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Narender Singh Gill, Advocate,
for the petitioner.**

Mr.Naveen Singh Panwar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

The present **fourth** petition has been filed under Section 439 of the Code of Criminal Procedure, seeking regular bail in FIR No.250 dated 10.10.2019, under Section 22 (b) of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Kalanwali, District Sirsa.

First bail application filed vide CRM-M-53927-2019, was dismissed on merits on 13.1.2020. Thereafter, the petitioner filed a second bail application vide CRM-M-13560-2020 which was also dismissed on 17.06.2020 by passing a detailed order. Thereafter third bail application was filed vide CRM-M-42530-2020 which was also dismissed by a detailed

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order passed on 04.01.2021 noticing the previous bail petitions filed by the petitioner which were dismissed.

Now the present **fourth** application has been filed by the petitioner for the grant of regular bail on the ground of long custody only.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 10.10.2019 and no prosecution witness has been examined till date whereas the charges were framed on 25.02.2020. He has submitted that although the alleged confiscation from the petitioner was of 600 tablets of tramadol which is of a commercial nature but the petitioner is entitled for a speedy trial as guaranteed under Article 21 of the Constitution of India and therefore, has prayed that the trial court be directed to expedite the trial.

Learned State counsel has submitted that the total weight of the confiscated contraband i.e. 600 tablets of tramadol from the petitioner was 525 grams and therefore, it was a commercial quantity and the case of the petitioner is hit by the bar contained under Section 37 of the NDPS Act. He has submitted that there is no ground available with the petitioner for making departure from the bar contained under Section 37 of the NDPS Act especially in view of the law laid down by Hon'ble Supreme Court in **State of Kerala etc. Vs Rajesh Etc. 2020 (1) RCR (Criminal) 818**. He has further submitted that it is correct that the petitioner is in custody since 10.10.2019 and the charges have been framed on 25.2.2020 and no prosecution witness has been examined till date. He has also stated that there is no case against the petitioner.

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I have heard the learned counsel for the parties.

No doubt the present petition is fourth successive bail petition and the case of the petitioner is hit by the bar contained under Section 37 of the NDPS Act because the confiscated quantity is commercial in nature. However, this Court cannot ignore the fact that the petitioner is in custody from 10.10.2019 and there is no other case against the petitioner and the charges have been framed wayback on 25.2.2020 and thereafter, no prosecution witness has been examined till date. Although there has been restricted hearing of cases due to Covid – 19 pandemic but at various stages, the Courts have also been working although not in full swing.

Therefore, considering the totality of the circumstances of the present case, it will be in the interest of justice, to expedite the trial of the case.

In view of the above, the petitioner is not entitled for the grant of bail in view of the bar contained under Section 37 of the NDPS Act and fourth successive application is not maintainable. However, keeping in view the long custody of the petitioner, the present petition is disposed of with a direction to the learned trial Court to conclude the trial within a reasonable time and expeditiously.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

July 30, 2021.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No