

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

**CRM-M-13023-2022
Date of Decision : 08.07.2022**

Amritpal Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Kirat Pal Dhaliwal, Advocate
for the petitioner.

Mr. R.S.Thind, DAG, Punjab.

JASGURPREET SINGH PURI, J (Oral)

The present petition is the 3rd petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR bearing No.117 dated 19.09.2019, under Section 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (in short 'the Act') and Section 29, 61 and 85 were of the Act added lateron, registered at Police Station Sherpur, District Sangrur.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 19.12.2020 which is more than 1½ years. Earlier he was granted interim bail by the trial Court in view of the fact that the FSL report was not received and thereafter when the FSL report was received, he surrendered back in time. Learned counsel further submitted that the allegation against the petitioner was pertaining to 640 tablets of Tramadol which according to the police were confiscated from the petitioner. It had weighted about 260 grams. The commercial quantity as

has been falsely implicated in view of the facts and circumstances of this case. He submitted that the petitioner has got clean antecedents and is not involved in any other case and the police after the investigation of the case presented the challan under Section 173 of the Code of Criminal Procedure before the competent Court on 11.06.2020 which is more than two years and till date even charges have not been framed by the trial Court. He submitted that the accusation against the petitioner was false and frivolous and he has faced incarceration for more than 1½ years and there is no justification coming forward as to why even charges have not been framed for more than two years. Learned counsel submitted that it is a case where the petitioner is not having any bad antecedents and is not involved in any other case and in view of the facts and circumstances of this case, the bar contained under Section 37 of the Act will not apply.

On the other hand, learned State counsel, on instructions, has submitted that it is correct that the petitioner is in custody from 19.12.2020 and the challan under Section 173 Cr.P.C. was presented on 11.06.2020 which is more than two years but still charges have not been framed till date. He submitted that it is also correct that the petitioner is not involved in any other case and the alleged confiscated quantity was marginally higher than the commercial quantity under the Act.

I have heard the learned counsel for the parties.

The petitioner has faced incarceration for more than 1½ years. As per learned counsel for the parties, he is not involved in any other case. The alleged confiscated quantity is marginally higher than the commercial quantity which is 250 grams. During the course of arguments, a specific query was raised to the learned State Counsel as to what was the reason and justification as to why the trial was being delayed for more than two years even the charges have not been framed,

learned State counsel was not able to put forward any justification in this regard.

In view of the aforesaid factual position, the prayer of the petitioner of being considered for the grant of regular bail is also required to be considered in the light of bar contained under Section 37 of the Act. Keeping in view the facts and circumstances of the present case wherein the petitioner is not involved in any other case and the allegation is with regard to confiscation of 640 tablets of tramadol which is marginally higher than the commercial quantity and coupled with the fact that no reason or justification has come forward as to why even charges have not been framed till date, this Court is of the view that there are reasons to believe at this stage at least that the petitioner is not guilty of offence. Apart from the same it is not the case of the State that in case the petitioner is released on bail then he may repeat the offence or may abscond in view of the clean antecedents of the petitioner and therefore the second ingredient contained under Section 37 of the NDPS Act also remains satisfied. Therefore, this Court is of the view that the bar of Section 37 of the Act will not apply in the present case.

Consequently, in view of the aforesaid facts and circumstances of the case, the present petition is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds/surety bonds to the satisfaction of the concerned Chief Judicial Magistrate/Trial Court/Duty Magistrate.

However, anything observed herein above shall have no effect on the merits of the case and is meant for deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

08.07.2022
mamta

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No