

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

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CRM-M-10003-2020 (O&M)

Date of Decision: 11.05.2022

Mahender Singh @ Raju

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. H.S.Ghuman, Advocate,
for the petitioner.

Mr. Rahul Mohan, DAG, Haryana,
assisted by ASI Pragat Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.128 dated 06.06.2019 at Police Station Sadar, Ratia, District Fatehabad, under Section 22C of the NDPS Act, wherein the allegations are broadly to the effect that the petitioner was found in possession of 21 bottles of NRX Codeine Phosphate and Chlorpmeniramine Maleate Syrup 100 ml and 317 strips (total 19020 tablets) of Rx Diohenoxylate Hydrochloridie and Atropine Sulphate.
2. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that there is violation of statutory provisions of section 42 of the NDPS Act. Learned counsel has further submitted that the petitioner has been behind bars for a substantial period

of about 3 years and the trial is proceeding at a snail's pace inasmuch as only 1 PW has been examined till date.

3. Opposing the petition, learned State counsel has submitted that since the petitioner had been caught red-handed and the recovered contraband falls in the category of 'commercial' quantity, no case for grant of bail is made out. Learned State counsel has, however, not disputed the fact that the petitioner has been behind bars since the last about 3 years. It has been informed that the petitioner otherwise has a clean record and is not involved in any other case. It has also been informed that as on date only 1 PW out of cited 12 PWs has been examined.
4. I have considered rival submissions addressed before this Court.
5. Hon'ble the Supreme Court vide order dated 07.02.2020 passed in Criminal Appeal No.245 of 2020 titled 'Chitta Biswas Alias Subhas Vs. The State of West Bengal' while dealing with a matter regarding grant of bail to an accused charged with allegations of being in possession of 'commercial' quantity of contraband, granted bail mainly on the ground that the petitioner has been in custody since 21.07.2018 and only 4 out of the cited 10 PWs had been examined.
6. In another case i.e. Criminal Appeal No.1570 of 2021 titled 'Mahmood Kurdeya Vs. Narcotics Control Bureau' pertaining to a case of recovery of 'commercial' quantity of 'Tramadol', where the accused had been in custody for about 3 years & 3 months, Hon'ble the Supreme Court vide its order dated 07.12.2021 was pleased to grant bail while making the following observations:

“.....What persuades us to pass an order in favour of the appellant is the fact that despite the rigors of Section 37 of the said Act,

in the present case though charge sheet was filed on 23.09.2018 even the charges have not been framed nor trial has commenced. The manufacturer who sold the drugs to the appellant during the sunset clause himself has been granted bail.”

7. In yet another case i.e. Criminal Appeal No.668 of 2020 titled ‘Amit Singh Moni Vs. State of Himachal Pradesh’, Hon’ble the Supreme Court vide its order dated 12.10.2020 was pleased to grant regular bail pertaining to a case of recovery of ‘commercial’ quantity of contraband on account of custody of 2 years and 7 months.
8. Bearing in mind the long custody period of the petitioner and also that the petitioner, otherwise, has a clean record and the conclusion of trial is likely to consume time, the petition is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

11.05.2022

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**(GURVINDER SINGH GILL)
JUDGE**

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