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

CRM-M No.13148 of 2022 (O&M)

Date of decision: 15.11.2022

Jagseer Singh alias Gogi

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Dhanpat Rai Singh, Advocate for
Mr. Inderjeet Sharma, Advocate
for the petitioner.

Mr. Digvijay Nagpal, AAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

CRM No.37435 of 2022

Prayer in this application is for placing on record the correct copy of dismissal order of bail of the applicant-petitioner passed by the trial Court dated 12.06.2020.

For the reasons recorded in the application, the prayer is allowed and the correct copy of dismissal order of bail of the applicant-petitioner is taken on record subject to just exceptions.

CRM-M No.13148 of 2022

This is the third petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.0030, dated 23.02.2020, lodged under Section 22 of the NDPS Act, 1985, registered at Police Station City Rampura, District Bathinda.

Learned counsel appearing for the petitioner submits that a false and fabricated case has been planted upon the petitioner for having been allegedly found in possession of 650 tablets of Clovidol-100 SR. He submits that the petitioner, who is 62 years old man, has been in custody for almost 03 years, having been arrested on 23.02.2020 and till date, not even a single prosecution witness, out of the 12 cited has been examined. It has also been submitted that the petitioner is not involved in any other criminal case much less under the NDPS Act.

Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions, has submitted that the recovery effected from the petitioner falls under the commercial quantity, though it is just marginally higher than the minimum prescribed under the NDPS Act. Learned counsel has conceded that though the charges were framed on 15.03.2021, however, the trial has not made much head way as no prosecution witness has been examined till date.

Learned State counsel has also not been able to controvert the submissions made by learned opposite counsel that the petitioner is not involved in any other criminal case much less under the NDPS Act.

I have heard learned counsel for the parties and perused the material placed on record.

The petitioner has been in custody for almost 03 years, having been arrested on 23.02.2020. As per instructions received by learned State counsel, none of the 12 prosecution witnesses have been

examined before the trial Court, even though the charges were framed almost 02 years back. The petitioner concededly is not involved in any other criminal case and the recovery of the alleged contraband effected from him is marginally higher than the minimum prescribed under the commercial category.

It is thus, evident that the trial has not been able to conclude for no fault or delay on the part of the petitioner. The Court would like to again observe here that the petitioner cannot be left languishing for an indefinite period during the pendency of the trial for reasons not attributable to him. It needs to be reiterated that the right to life and personal liberty granted by the Constitution of India also covers the right to speedy trial, therefore, when an under trial has been in custody for a significant period of time and the trial is being held up for no fault on his part, like in the case in hand, the Court cannot be expected to be a mute spectator and should rather unhesitatingly interfere for securing the personal liberty of an under trial.

In the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

15.11.2022
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No