

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

**CRM-M-26833-2022 (O&M).  
Date of Decision: 01.12.2022.**

|                  |        |                 |
|------------------|--------|-----------------|
| Subhash          | Versus | ....Petitioner. |
| State of Haryana |        | ....Respondent. |
| ***              |        |                 |

**CORAM: HON'BLE MR. JUSTICE LALIT BATRA**

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**Present:** Mr. Dheeraj Narula, Advocate and  
Mr. Ajay Kamboj, Advocate for petitioner.

Ms. Tanisha Peshawaria, Deputy Advocate General, Haryana.

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**Lalit Batra, J.**

This second petition under Section 439 Cr.P.C. for grant of regular bail has been moved by petitioner-**Subhash** in case FIR No.231 dated 18.05.2020 under Section 22(c) of the Narcotic Drugs and Psychotropic Substance Act, 1985 (hereinafter referred to as 'the Act'), registered at Police Station Rania, District Sirsa.

Learned counsel for the petitioner *inter alia* contends that the allegations levelled against the petitioner are totally concocted, false and frivolous and there is no iota of truth therein. He further urges that allegedly 1000 capsules Parvorin-Spas Tramadol Hydrochloride make Ridley were recovered from the petitioner. He further urges that provisions of Section 50 of the Act were not complied. He further urges that no independent witness was joined by the Investigating Agency in the present case. He further urges that petitioner is not involved in any other case of similar nature. He further urges that petitioner is languishing in custody since 18.05.2020. He further urges that after completion of investigation, final report as envisaged under Section 173 Cr.P.C. (*Challan*) has already

presented in the Court and out of twelve (12) prosecution witnesses, only one (01) witness has been examined till date. He further urges that since trial of the case would take sufficient time to conclude, no useful purpose would be served by keeping the petitioner in custody further and he may be released on bail.

On the other hand, learned State counsel while opposing instant petition has vehemently argued that contraband (1000 capsules Parvorin-Spas Tramadol Hydrochloride make Ridley) recovered from the possession of the petitioner falls within 'commercial quantity', thus, in view of bar created by Section 37 of the Act, petitioner does not deserve the concession of bail.

I have heard learned counsel for the parties and have carefully gone through the record of the case.

Allegedly, contraband (1000 capsules Parvorin-Spas Tramadol Hydrochloride make Ridley) was recovered from the petitioner.

As per status report dated 03.11.2022 received from Trial Court, out of twelve (12) prosecution witnesses, only one (01) witness has been examined.

Hon'ble Supreme Court, vide order dated 01.08.2022 passed in **Special Leave to Appeal (Crl.) No.5769/2022** titled **Nitish Adhikary @ Bapan** vs. **The State of West Bengal**, has granted bail to accused having undergone custody of 01 year and 07 months stating that trial is at preliminary stage as only one witness has been examined.

At this stage, without commenting anything on the merits of the case, the fact that petitioner remained in custody w.e.f. 18.05.2020; that

though trial has commenced and till date out of twelve (12) prosecution witnesses, only one (01) witness has been examined by the prosecution and that since trial of the case would take sufficient time to conclude, no useful purpose would be served by keeping the petitioner in custody further, thus, he deserves the concession of bail.

In view of above, instant petition for grant of regular bail moved by petitioner-**Subhash** is allowed and he is ordered to be released on bail on his furnishing personal bond and surety bond to the satisfaction of Trial Court/Chief Judicial Magistrate/Duty Magistrate, Sirsa, as the case may be.

**(LALIT BATRA)**  
**JUDGE**

**01.12.2022**  
*jitender*

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|----------------------------|---|---------|
| Whether speaking/ reasoned | : | Yes/ No |
| Whether Reportable         | : | Yes/ No |