

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-36673-2021 (O&M)
Date of Decision:-11.7.2022

Sudhir Kumar @ Dholia ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Ms. Shruti Rathour, Advocate for the petitioner.

Mr. Tanvir Joshi, AAG, Punjab,
assisted by ASI Gurmeet Singh.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.0032 dated 3.4.2019, Police Station City-2, Abohar, District Fazilka, Punjab, under Sections 22 of Narcotic Drugs & Psychotropic Substances Act.
2. As per the case of prosecution, the petitioner was found in possession of 400 strips (4000 tablets) of '*Alprazolam*' regarding which he could not furnish any licence or permit. The total weight of tablets recovered was 542.92 grams.
3. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that there is no credible

evidence to connect him with the alleged recovery. It has further been submitted that the petitioner has been behind bars for a substantial period of more than 3 years and 3 months and that since the trial is proceeding at its snail's pace, he deserves the concession for grant of bail particularly when he is not involved in any other case.

4. Opposing the petition, learned State counsel has submitted that since the petitioner was caught red handed with a 'commercial' quantity of contraband, no case for grant of bail is made out. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last more than 3 years and 3 months and that as on date only 3 out of the cited 7 PWs have been examined. It has also been informed that the petitioner is not involved in any other case.
5. I have considered rival submissions addressed before this Court.
6. The petitioner, who was apprehended on 3.4.2019, has been behind bars for a substantial period of more than 3 years and 3 months and is stated to be having a clean record. The conclusion of trial is likely to consume more time inasmuch as only 3 out of the cited 7 PWs have been examined so far.
7. Hon'ble the Supreme Court vide order dated 7.2.2020 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 21.7.2018 and only 4 out of the cited 10 PWs had been examined.

8. 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 and 3 months, Hon'ble the Supreme Court vide its order dated 7.12.2021 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.”

9. 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.
10. 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 as till date only 3 out of the cited 7 PWs have been examined, 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.

11.7.2022

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No