

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

218

CRM-M-37111-2020

Date of decision: 17.01.2022

Mandeep Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. G.S. Sandhu, Advocate for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

SUVIR SEHGAL J. (ORAL)

Heard through video conferencing.

This is the second petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.225, dated 15.12.2019 registered for offences under Section 22 of the NDPS Act, 1985, at Police Station Gidderbaha, District Sri Muktsar Sahib, Annexure P-1.

As per the case of the prosecution, FIR, Annexure P-1, has been registered on recovery of 7500 tablets of *Tramadol Hydrochloride* salt from Mandeep Singh (present petitioner) and Gagan Kumar, who were travelling on foot.

Counsel for the petitioner contends that the recovery effected from the petitioner is 1000 tablets containing *Tramadol Hydrochloride* salt and the remaining recovery is from the co-accused. Counsel urges that the petitioner is in custody since 16.12.2019 and no prosecution witness has been examined. Still further, he submits that the first petition filed by the petitioner was withdrawn after arguments on 28.07.2020, and the period of incarceration as well as clean past of the petitioner warrant grant of bail to the petitioner.

Per Contra, upon instructions from ASI Gurdeep Singh, State counsel submits that the total weight of the contraband recovered is 419 grams, which falls within the category of commercial quantity. As per his instructions, challan was presented on 02.06.2020, charges framed on 09.08.2021, though none out of 11 prosecution witnesses have been examined. He has filed custody certificate dated 15.01.2022, which is taken on record and on the basis of the same, has not been able to dispute that the petitioner has a clean past.

Having considered the circumstances of the case, this Court is prima facie of the view that the period of custody of the petitioner which is more than 02 years and 01 month, coupled with his unblemished past, entitles him to be released on bail. It has been held by the Supreme Court in **Union of India versus K.A. Najeeb 2021 (2) RCR (Criminal) 145** that long custody without their being any progress in the trial makes it obligatory on the Court to release the accused on bail.

Without examining the arguments addressed by the counsel for the parties, the petition is allowed. The petitioner is ordered to be released on bail on furnishing heavy bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

17.01.2022

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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No