

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

CRM-M-43952-2021 (O & M)

Date of decision: 31.08.2022

Sanjay Kumar

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Rishabh Soni, Advocate for
Mr. Amit Goyal, Advocate,
for the petitioner.

Mr. Gagandeep Singh Chhina, AAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks regular bail in case FIR No.80 dated 28.02.2020, registered at Police Station Ellenabad, District Sirsa, under Section 22 NDPS Act, 1985.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that recovery of 520 intoxicating capsules, containing the salt of 'PARVORIN-SPAS Ridley Tramadol', had allegedly been effected in the present case; that though the aforesaid extent of intoxicating capsules recovered in the present case, falls under the commercial quantity, yet the fact remains that the petitioner has been in custody for the last more than 01 year and 10 months, and that the prosecution witnesses are yet to be examined. In such circumstances, conclusion of the trial would take a long time. Moreover, the petitioner is not involved in any other case, much less of a similar nature. On this premise, learned counsel prays for the grant of bail to the petitioner. In

support of his contentions, learned counsel relies upon the orders delivered by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No.5769-2022, titled as 'Nitish Adhikary @ Bapan Vs. State of West Bengal', on 01.08.2022, and Special Leave to Appeal (Crl.) No.4173-2022, titled as 'Shariful Islam @ Sarif Vs. State of West Bengal', on 04.08.2022.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that the aforesaid extent of intoxicating capsules recovered in the present case, falls under the commercial quantity and the case of the petitioner is hit by the bar contained under Section 37 NDPS Act. However, he does not dispute the custody period of the petitioner.

I have heard the learned counsel for the parties.

After investigation, challan was filed way back on 30.03.2020 and thereafter, the charges were framed on 28.09.2021. The prosecution witnesses are yet to be examined. There is likelihood of completion of trial in the near future. The petitioner has been in custody for the last more than 01 year and 10 months. There is no other case registered or pending against the petitioner, at least of a similar nature. All these facts persuade this Court to grant bail to the petitioner despite the rigors of Section 37 NDPS Act in the present case. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

It is also clearly stipulated that the petitioner would be required to remain present on all dates fixed by the trial Court and his counsel will not seek unnecessary adjournments and that if the petitioner seeks to delay the trial or involves him into another case of a similar nature, the trial Court is permitted to put back him into incarceration.

31.08.2022
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No