

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

CRM-M-56510-2022

Date of decision: 09.12.2022

Jarnail Singh

....Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gurpal Singh Sandhu, Advocate for the petitioner
Mr. Sandeep Chopra, DAG, Punjab

ANIL KSHETARPAL, J (Oral)

This is the petitioner's 5th attempt to get bail pending trial in a criminal case arising from FIR No. 222 dated 24.08.2019 registered under Section 22 and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985, hereinafter referred to as the 'NDPS Act' (Section 29 of NDPS Act was added later on) at Police Station, Sardulgarh, District Mansa.

The first bail petition filed by the petitioner was dismissed as withdrawn on 18.11.2019 with liberty to file a fresh one on receipt of the report of the Forensic Science Laboratory. The second petition was dismissed on 25.08.2020 whereas the next petition was rejected on 11.05.2022. The petitioner's 4th attempt was also dismissed on 20.09.2022.

Learned counsel representing the petitioner relies upon the order dated 15.11.2022 passed in CRM-M-20921-2022 titled as '**Hemant Kumar vs. State of Punjab**'. It has been contended that Hemant Kumar is a co-accused with the petitioner and the period of incarceration already

suffered by the petitioner is more than that of Hemant Kumar. He submits that the petitioner does not have any other criminal antecedents.

The order dated 15.11.2022 is extracted as under:-

“This is the petitioner’s third attempt to get bail pending trial in a criminal case arising from FIR No.222 dated 24.08.2019 registered under Section 22, 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Sardulgarh, District Mansa.

The first bail petition was dismissed as withdrawn with liberty to file a fresh one whereas the second was dismissed on merits on 03.12.2020.

As per the case of the prosecution, 2 boys, including the petitioner, were coming on a motorcycle and on being signaled to stop, they tried to run away. In that process, they fell on the ground and the zip of their bag broke open and 650 strips of Cavilodol 100-SR containing Tramadol Hydrochloride intoxicating tablets were recovered. Both the boys were apprehended including the petitioner namely Hemant Kumar. As per the custody certificate, the petitioner has undergone incarceration for a period of 3 years and 4 months.

Learned counsel representing the petitioner contends that the petitioner does not have any criminal past and in fact the recovery is from a co-accused, namely Jarnail Singh, who was on the pillion.

Learned State counsel does not dispute that as per his information, the petitioner is not involved in any other criminal case. The petitioner at the time of incident was 27 years of age. He has further informed the Court that the trial court has recorded the deposition of 4 witnesses, out of which cross-examination of 2 witnesses is still remaining. He submits that the prosecution intends to examine as many as 14 witnesses.

The conclusion of the trial is likely to take some time. No doubt, Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 does provide for the stringent parameters for the grant of bail, however, the Court cannot overlook the period of incarceration undergone by the petitioner. It is evident that the trial of the case is progressing at a snail’s pace. Hence, in the interest of justice and

without commenting on the merits of the case and also keeping in view the aforesaid facts, it is considered appropriate to release the petitioner on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

*The petition stands allowed.
All the pending miscellaneous applications, if any, are also disposed of.”*

Without commenting on the merits of the case and keeping in view the aforesaid facts and also the fact that his co-accused has already been granted the concession of bail, it is considered appropriate to release the petitioner on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

The petition stands allowed.

All the pending miscellaneous applications, if any, are also disposed of.

09.12.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE