

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-339-2021

Date of Decision: 27.3.2023

Shivraj Singh @ Saji

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Talim Hussain, Advocate
for the petitioner.

Mr. Sanish Girdhar, AAG, Punjab

KARAMJIT SINGH, J.

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.182 dated 3.9.2020 registered for the offences punishable under Sections 22 of NDPS Act and Section 188 of IPC at Police Station Sangat, District Bathinda.

The allegations in brief are that on 3.9.2020, the police recovered 450 strips each containing 10 tablets of Clovidol 100-SR bearing batch number and 500 strips each containing 10 tablets of Clovidol 100 bearing separate batch number from the car in which the petitioner was travelling.

Counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and is in custody for the last more than 2 years and 6 months and is not involved in any other criminal case under NDPS Act. He further submits that the trial is not progressing ahead as till

date, no prosecution witness is examined. He referred to order dated 1.8.2022 in SLP (Criminal) No. 5769-2022; **Nitish Adhikary @ Bapan v. State of West Bengal** wherein Hon'ble Supreme Court granted regular bail to the accused in a case relating to recovery of commercial quantity of contraband as the accused therein had undergone custody for a period of one year and seven months.

The present petition is contested by the State counsel who submits that commercial quantity of medical intoxicants were recovered from the possession of the petitioner and that the trial has commenced but till date, no prosecution witness has been examined. State counsel further submits that rigors of Section 37 of NDPS Act are applicable in the instant case. However, the State counsel has not disputed the fact that the petitioner is in custody for the last more than 2 years and 6 months and that the petitioner is not having any criminal history under the NDPS Act.

I have considered the submissions made by the counsel for the parties.

No doubt, the present case is relating to recovery of commercial quantity of medical intoxicants from the petitioner but at the same time, it is to be noted that the petitioner is in custody for the last more than 2 years and 6 months and is not involved in any other case under NDPS Act. Further, in the instant case, till date, no prosecution witness has been examined and as such, it will take considerable time for the trial to conclude. Hon'ble Apex Court in **Nitish Adhikary @ Bapan's** case (supra) granted regular bail to the accused therein who had undergone custody for a period of 1 year and 7 months in a case relating to recovery of commercial quantity of contraband. Still further, in case, the accused person is able to

make out a case under the provisions of Article 21 of the Constitution of India in view of the period of long incarceration, then he deserves the concession of regular bail even in the face of rigors of Section 37 of NDPS Act. It is not the case of the respondent-State that if released on bail, the petitioner is going to flee from law or hamper the course of trial. Further, since the trial would take sufficient time, no useful purpose if going to be served by keeping the petitioner behind the bars for any longer period.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

March 27, 2023
Paritosh Kumar

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