

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

CRM-M-3946-2023
Date of Decision:-**31.08.2023**

JATINDER SINGH @ RINKU

... Petitioner

Versus

STATE OF UT CHANDIGARH

... Respondent

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Vivek Kathuria, Advocate
for the petitioner.

Mr. Sumit Jain, Addl. P.P. U.T. Chandigarh.

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KARAMJIT SINGH, J. (Oral)

1. The present second petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case having FIR No.1 dated 4.1.2022, registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act (for short 'the Act'), Police Station IT Park, District Chandigarh.
2. The brief facts of the case are that 302 grams of heroin was recovered from the petitioner by the police on 4.1.2022
3. The counsel for the petitioner, *inter alia*, contends that the petitioner is falsely implicated in the present case and that the petitioner is in custody for the last more than 1 year and 7 months and has already

been acquitted in 1 another criminal case. The counsel for the petitioner further submits that the trial is not progressing ahead as till date only 7 witnesses out of total 14 witnesses have been examined on behalf of the prosecution. So prayer is made that the petitioner be released on bail. The counsel for the petitioner has placed reliance on **Hasanujjaman & Ors. vs. The State of West Bengal, SLP (Crl.) No. 3221 of 2023, decided on 04.05.2023**, wherein also in case of commercial quantity of contraband, the accused has been granted bail on account of the fact that he was in custody for more than 1 year and 4 months.

4. The present petition is resisted by the UT counsel, who submits that commercial quantity of contraband was recovered from the petitioner. It is further submitted that proper samples were taken out of the recovered contraband as per the statutory provisions. That as per the report of FSL, the samples reached the said laboratory in their intact condition. The State counsel further submits that the rigors of Section 37 of the Act are applicable to the present case. However, he has not disputed the fact that the petitioner is in custody for the last more than 1 years and 7 months and is acquitted in one another criminal case registered against him. The UT counsel further apprised the Court that till date 7 witnesses out of 14 witnesses have been examined on behalf of the prosecution.
5. I have considered the submissions made by counsel for the parties.
6. Admittedly, the custody period of the petitioner comes out to be 1 year and 7 months and the trial is not progressing ahead as till date only 7

witnesses out of total 14 witnesses have been examined on behalf of the prosecution. Further, the petitioner is not involved in any other criminal case of similar nature. In the given circumstances, it will take considerable time for the trial to conclude. In view of the fact that the trial is being delayed, the embargo provided in Section 37 of the Act can be diluted to an extent and the petitioner can be enlarged on bail keeping in view the right to a speedy trial as mandated under Article 21 of Constitution of India.

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

31.08.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

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