

218 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-6182 of 2021(O&M)

Date of Decision: 28.02.2023

Hardeep Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. J.S. Sandhu, Advocate and
Mr. P.K.S. Phoolka, Advocate
For the petitioner.

Mr. C.L. Panwar, Addl. AG Punjab.

KARAMJIT SINGH, J.

The present petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case having FIR No. 120 dated 01.07.2020, registered under Section 22 of Narcotic Drugs and Psychotropic Substances Act (No.61) of 1985 (for brevity, the Act), at Police Station Nathana, District Bathinda, to which Section 29 of the Act was added lateron.

As per the facts of the case, the police while on patrolling duty found that one Alto car involved in accident was standing on the side of the road and when the police officials reached near it, one person was seen getting out of the front seat of the said car and tried to fled away but the police officials asked him to stop and then he disclosed his name as Hardeep Singh. Two bags were found lying in the said car and on checking, commercial quantity of medical intoxicants were found from the said two

bags and immediately aforesaid Hardeep Singh (the petitioner) was arrested in this case. The samples were taken from the contraband recovered and on completion of formalities the same were sent to FSL. On the receipt of the report of FSL the challan was presented against the petitioner.

The counsel for the petitioner has contended that the petitioner is falsely implicated in the present case and that the petitioner who is having no criminal history is behind bars for the last more than 02 years and 07 months. The counsel for the petitioner further submits that the trial is not progressing ahead. The counsel for the petitioner further submits that the alleged recovery was effected in violation of mandatory provisions of Sections 42 and 50 of the Act. The counsel for the petitioner further submits that the petitioner is entitled to grant of regular bail and in this context the counsel for the petitioner has relied upon the order of the Hon'ble Supreme Court in SLP(Crl.) 6690 of 2022 (**Dheeraj Kumar Shukla Vs. State of U.P.**, decided on 25.01.2023), wherein bail has been granted to the accused in a case pertaining to recovery of commercial quantity of contraband on account of his long incarceration of about 02 years and 06 months. The counsel for the petitioner has also referred to SLP(Crl.) 5769 of 2022 (**Nitish Adhikary @ Bapan Vs. State of West Bengal**, decided on 01.08.2022) wherein the accused was granted bail in a case relating to recovery of commercial quantity of contraband after he had undergone custody for a period of 01 year and 07 months. The counsel for the petitioner has also placed reliance upon order dated 16.02.2023 in CRM-M-24168 of 2022 (**Mandeep Singh Vs. State of Punjab**), wherein the Co-ordinate Bench of this Court granted bail to the accused involved in a case relating to

commercial quantity of contraband on the ground that he has been incarcerated for about 02 years and 08 months.

The present petition is opposed by the State counsel who submits that in the present case contraband recovered is covered under commercial quantity and further the trial is going on. However, the State counsel has not disputed the fact that the petitioner is in custody for the last more than 02 years and 07 months and is having no criminal history and further only 04 out of total 13 witnesses have been examined on behalf of the prosecution.

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

There is no doubt that the quantity of contraband recovered in the present case comes under commercial quantity as per the provisions of the Act, however, at the same time the petitioner is in custody for a period of last more than 02 years and 07 months and is not involved in any other criminal case. Out of 13, only 04 witnesses have been examined by the prosecution till date and it will take considerable time for the trial to conclude.

In the given circumstances, the petitioner is able to make out a case within the ambit of Article 21 of the Constitution, which confers right of speedy trial. In view of the long incarceration of the petitioner, sufficient mitigating circumstances are made out for grant of bail even in the face of rigors of Section 37 of the Act.

In the light of the above, without expressing any views 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. However, in case the petitioner is found to be involved in any other similar case, in future, the State shall be at liberty to seek cancellation of bail granted to him by this Court.

**(KARAMJIT SINGH)
JUDGE**

28.02.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No