

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-8071-2021

Date of Decision: 17.5.2023

Jagdish Rai

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. L.S.Sekhon, 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.377 dated 19.8.2020 registered for the offences punishable under Sections 22, 25 of NDPS Act at Police Station City Barnala, District Barnala.

Brief fact of the case are that on 19.8.2020, on search of truck bearing registration No.PB03-AJ-9499, the police recovered 5000 strips each containing 10 tablets of Clovidol 100 SR having batch number, manufacturing number, expiry date from the petitioner who was arrested at the spot.

Counsel for the petitioner contends that the petitioner is falsely implicated in the present case and that the petitioner, who is having no criminal history under the NDPS Act is in custody for the last more than 2 years and 9 months. Counsel for the petitioner further submits that the trial

is going at a snail's pace. Counsel for the petitioner further submits that there is no independent corroboration to the prosecution story. Counsel for the petitioner further submits that it will take considerable time for the trial to conclude. So the petitioner is entitled to grant of regular bail and in this context, counsel for the petitioner has relied upon the order of the Hon'ble Supreme Court in **SLP(Crl.) 6690 of 2022 (Dheeraj Kumar Shukla v. 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. Counsel for the petitioner has also referred to **SLP(Crl.) 5769 of 2022 (Nitish Adhikary @ Bapan v. 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. Counsel for the petitioner has also placed reliance upon order dated 16.02.2023 in CRM-M-24168 of 2022 (**Mandeep Singh v. 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 commercial quantity of contraband was recovered from the petitioner and further the trial is going on and already 3 witnesses have been examined on behalf of prosecution. However, the State counsel has not disputed the fact that the petitioner is in custody for the last more than 02 years and about 09 months and is not facing any other criminal case under the NDPS Act.

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

Admittedly 5000 strips each containing 10 tablets of Clovidol 100 SR were recovered from the petitioner and their quantity comes under commercial quantity. Admittedly, the petitioner is in custody for a period of last more than 2 years and 8 months and is not involved in any other criminal case under the NDPS Act. Out of 10 witnesses, till date prosecution is able to examine only 1 witness and it will take considerable time for the trial to conclude.

In the circumstances as detailed above, the petitioner is able to make out his case within the scope of Article 21 of the Constitution, which confers right of speedy trial. In view of the long custody sufficient mitigating circumstances are made out for grant of bail to the petitioner, even in the face of the embargo provided in Section 37 of the NDPS 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

May 17, 2023
Paritosh Kumar

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