

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9647-2023
Date of Decision:-10.08.2023

KIRNA KAUR ... Petitioner
Versus
STATE OF PUNJAB ... Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Siddharth Gupta, Advocate
for the petitioner.
Mr. Vinay Kumar Gupta, AAG, Punjab.
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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.21 dated 20.05.2021, registered under Sections 22 and 29 (added later on) of the Narcotic Drugs and Psychotropic Substances Act (for short 'the Act'), Police Station Jaurkian, District Mansa.
2. The brief facts of the case are that the police apprehended the petitioner on 20.5.2021 and 50 strips each containing 9 tablets of Tredol-100 (Tramadol Hydrochloride tablets 100 mg) were recovered from the polythene bag which the petitioner was carrying in her hand.
3. The counsel for the petitioner has contended that petitioner is a lady aged about 45 years and is in custody since 20.5.2021. The counsel for the petitioner further submits that the petitioner has been falsely

implicated in the present case. The counsel for the petitioner further submits that there was also violation of mandatory provision of Section 50 of NDPS Act as no proper offer was given to the petitioner before the alleged recovery was effected. The counsel appearing on behalf of the petitioner further submits that earlier the petitioner was released on interim bail till the receipt of report of FSL and immediately thereafter the petitioner surrendered and is now in custody since 14.2.2022. 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. So prayer is made that the petitioner be granted concession of regular bail.

4. Short reply by way of affidavit of Mr. Pritpal Singh, DSP, Sub-Division Sardulgarh, District Mansa along with Annexures are ordered to be taken on record.
5. The present petition is resisted by the State 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, the State counsel has not disputed the custody period of the petitioner and

further submits that no other case is pending against the petitioner and that 5 witnesses out total 16 witnesses have been examined on behalf of the prosecution. 6. I have considered the submissions made by counsel for the parties.

7. Admittedly, the custody period of the petitioner comes out to be more than 1 year and 6 months and the trial is not progressing ahead as only 5 witnesses out total 16 witnesses have been examined on behalf of the prosecution. Further, the petitioner is not involved in any other criminal case. 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.
8. 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 her furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned

10.08.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

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