

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

CRM-M-20568-2022

Date of Decision: 16.03.2023

Gurmail Singh @ Gela

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Naveen Sharma, Advocate, for the petitioner.

Mr. Sandeep Kumar, Deputy Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.64 dated 11.06.2020, registered under Sections 22, 61, 85 of NDPS Act, 1985, at Police Station Sadar Rampura, District Bathinda.

As per facts of the case, on 11.06.2020 on seeing the police party a person coming on motorcycle was perplexed and the motorcycle was slipped. As the rider of the motorcycle fell down, polythene bag hanging on the handle of the motorcycle fell down and the strips of tablets were scattered out of the box on road. The police party nabbed the person, who disclosed his name Gurmail Singh Gela (petitioner). Recovery of 90 strips of tablets totalling 900 tablets was made. Finding the same to be suspicious, the case was registered and the petitioner was arrested. Samples were drawn and sent to the FSL. On receipt of the same, the salt was confirmed to be Tramadol Hydrochloride and average quantity of ingredient in the parcel was found to be 98.81 mg/tablet and the total weight of the contraband was found to be 369.108 grams. The petitioner approached the Court of learned Judge, Special Court, Bathinda for grant of bail, who, after hearing the

parties, declined the same vide order dated 01.02.2021 Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely implicated in this case. He submits that the recovery of tablets made from the petitioner was totally planted on him as he never carried the same. He submits that even otherwise the Investigating Agency has shown the recovery from the road and thus, the same does not amount to the conscious possession of the petitioner. It has submitted that the petitioner is behind bars since 11.06.2020 and thus, he has already completed custody of two years and nine months. He submits that despite the long custody of the petitioner, the prosecution has failed to conclude the trial. He submits that the petitioner has no criminal antecedents as he never been involved in any other case under the NDPS Act and thus, deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner and has submitted that the petitioner was arrested on the spot and from the motorcycle he was riding, a bag was found hanging from which strips of tablets fell down on the road. He submits that the conscious possession of the petitioner is duly proved. However, he submits that in all there are 12 prosecution witnesses, out of which 4 witnesses are given up and thus, there are total 8 prosecution witnesses as on date, out of which 3 witnesses have already been examined. On instructions from ASI Karan Singh, he has submitted that petitioner is not involved in any other case under the NDPS Act, however, he was prosecuted in one FIR No.83 dated 20.11.2008, registered under Sections 325, 324, 323, 34 IPC, registered at Police Station Phul, in which he was

convicted and sentence for one year imprisonment and has been granted bail. He further submits that there is one more FIR against the petitioner i.e. FIR No.99 dated 04.10.2000, in which he is on bail as well.

Heard.

Admittedly, the petitioner is behind bars since 11.06.2020 and he has completed two years 9 months custody. Out of total 8 prosecution witnesses, 3 witnesses already stand examined. As submitted before this Court, the petitioner is not involved in any other case of the similar nature. Veracity of the allegations would be evaluated by the learned trial Court on the basis of the evidence to be led by both the parties before it. Though the quantity recovered from the petitioner is commercial, however, keeping in view the overall facts and circumstances of the case and the custody period, this Court finds that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time for its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

16.03.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No