

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

CRM-M-24654-2022
Date of Decision:-**25.04.2023**

GURSEWAK SINGH @ GARRY

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:-
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Mr. Gurpal Singh Sandhu, Advocate
for the petitioner.

Mr. Chaman Lal Pawar, Addl. A.G. Punjab.

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KARAMJIT SINGH, J. (Oral)

1. Prayer is for grant of regular bail in case having FIR No.327 dated 19.09.2020 registered under Section 22 of NDPS Act at Police Station City Sri Muktsar Sahib, District Sri Muktsar Sahib.
2. Brief fact of the case are that on 19.9.2020, police recovered 80 bottles of Wincirex 100 ml having batch number, manufacturing number, expiry date from the petitioner along with 100 strips each containing 10 tablets of Carisoma. The petitioner was arrested at the spot.
3. The 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 7 months. The counsel for the petitioner further

submits that the trial is going at a snail's pace. The counsel for the petitioner further submits that there is no independent corroboration to the prosecution story. The 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 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.

4. 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 07 months and is not facing any other criminal case under the NDPS Act.

5. I have considered the submissions made by counsel for the parties.
6. Admittedly 100 strips each containing 10 tablets of Carisoma are not covered under the NDPS Act. However 80 bottles of Wincirex 100 ml are subject matter of the NDPS Act and their quantity comes under commercial quantity. Admittedly, the petitioner is in custody for a period of last more than 2 years and 7 months and is not involved in any other criminal case under the NDPS Act. Out of 14 witnesses, till date prosecution is able to examine only 3 witnesses and it will take considerable time for the trial to conclude.
7. 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.
8. 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

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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.

25.04.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

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