

2023:PHHC:080103

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27674-2021
Date of Decision : 01.06.2023

Sarabjit Singh @ Sabi

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present : Mr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Sukhcharan Singh Gill, Advocate
for the petitioner.

Mr. Mohit Kapoor, Addl. A.G., Punjab
for the respondent-State.

VIKRAM AGGARWAL, J (ORAL)

1. In compliance of the order dated 01.11.2021, affidavit of Deputy Superintendent of Police (Sub-Division), City Moga, District Moga and custody certificate have been filed. The same are taken on record.
2. The present petition has been preferred under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.22 dated 19.03.2021, registered under Sections 21-A, 21-C, 22-A, 22-C and 29 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (for short 'the Act'), at Police Station Sadar Moga, District Moga.
3. On 19.03.2021, a raid was conducted at Jassal Medicose in

Moga. The petitioner was apprehended and 750 tablets of RL-DOL-100SR and 150 tablets of Celcidol-100SR were recovered from the said shop. As per the report of the Forensic Science Laboratory, the total weight of the contraband which was found to be *Tramadol* came to 304.8 grams (255 grams in RL-DOL-100SR tablets and 49.08 grams in Celcidol-100SR tablets). Final report under Section 173 Cr.P.C. was submitted on 11.06.2021 and the trial is still going on.

4. Learned Senior counsel representing the petitioner has submitted that the petitioner is in custody since 19.03.2021. He submits that out of a total of 23 witnesses, only 03 have been examined till date despite the fact that final report was submitted almost 02 years back i.e. on 11.06.2021. Learned Senior Counsel, therefore, submits that the trial will take a sufficiently long time and, therefore, no useful purpose would be served by keeping the petitioner in custody any longer. It has also been contended that the assertion in the reply submitted by the State that the petitioner is involved in two other cases is also false as he was acquitted in the said cases way back in the year 2012 and 2013. Learned counsel submits that as per the reply submitted by the respondent-State of Punjab, co-accused Tejinder Singh and Ravi have already been released on bail.

5. Learned counsel representing the respondent-State of Punjab has, however, opposed the bail application submitting that the petitioner was found in possession of a commercial quantity of *Tramadol* and, therefore, the bar of Section 37 of the Act would be attracted. It has, however, been

admitted that till date only 03 witnesses have been examined. Learned counsel submits that 03 other witnesses have been given up as being unnecessary out of a total of 23 witnesses.

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

7. The petitioner was arrested on 19.03.2021 and some tablets of RL-DOL-100SR and Celcidol-100SR were recovered from him. The total weight of the contraband *Tramadol* came to be 304.8 grams. Any quantity more than 250 grams comes in the category of commercial quantity. However, at the same time, the fact that cannot be lost sight of is that the final report under Section 173 Cr.P.C. was submitted on 11.06.2021 and till today only 03 witnesses out of a total of 23 witnesses have been examined. Three other witnesses are stated to have been given up but still 17 witnesses remain to be examined. It is, therefore, clear that the trial will still take a sufficiently long time to conclude. The petitioner is stated to have been acquitted in the two other cases which were earlier registered against him. Learned counsel representing the respondent-State of Punjab has been unable to rebut this fact. The co-accused in the present case namely Tejinder Singh and Ravi are also stated to have been released on bail.

8. Be that as it may, the petitioner cannot be kept in custody for all times to come. It is yet to be finally decided whether the petitioner is guilty or not. If the petitioner is held guilty, he will undergo the sentence imposed upon him.

For the reasons mentioned in the preceding paragraphs, without expressing any opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, Moga.

(VIKRAM AGGARWAL)
JUDGE

01.06.2023
mamta

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No