

210

2023:PHHC:120990

IN THE HIGH COURT OF PUNJAB & HARYANA

AT CHANDIGARH

CRM-M-34729-2022

Date of decision: 14th September, 2023

Balvir Singh

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Shikha Sharma, Advocate for the petitioner.
Ms. Navreet K. Barnala, AAG, Punjab.

AVNEESH JHINGAN, J (Oral):

1. The present petition has been filed under Section 439 of Cr.P.C. seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
215	30 th June, 2019	Zirakpur	22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (For short ‘the Act’)

2. As per case set up by the prosecution, on 30th June, 2019 Balvir Singh-petitioner was apprehended and twenty-seven injections of Bupronorphene of 2ml each along with 10ml injection of Avil were recovered.

3. Learned counsel for the petitioner relies upon the decision of *Supreme Court* in *Special Leave to Appeal (Crl.) No.(s) 4169 of 2023—Rabi Prakash v. The State of Odisha*, decided on 13th July, 2023, *Special Leave to Appeal (Crl.) No(s), 3221/2023 titled as Hasanujjaman and ors vs. The State of West Bengal, Special Leave to Appeal (Crl.) No.1166/2023 titled as Chet Ram @ Ram Veer vs. Union of India* decided on 15th March, 2023 and *SLP (Crl.) No. 6690 of 2022-Dheeraj Kumar Shukla v. The State of Uttar Pradesh* decided on 25th January, 2023 contending that petitioner is in custody for more than two years and trial is not progressing at a decent pace.

4. Learned State counsel has produced the custody certificate.

She on instructions fairly submits that out of ten prosecution witnesses only one has been examined.

5. It is clarified that observations made hereinafter shall not be construed as an expression of opinion on the merits of the case.

6. The petitioner is in custody for two years, two months and twenty-five days. As per the custody certificate, he is not involved in any other criminal case. On one hand, personal liberty of the petitioner is deprived on the other hand, there is no progress in the trial. It would be appropriate to mention here that Avil does not fall within ambit of the Act. The Supreme Court in judgments cited by the petitioner has granted bail in similar circumstances considering the custody period and the fact that trial was not progressing. No useful purpose would be served by depriving the personal liberty of the petitioner, petitioner has no criminal antecedents, conclusion of trial is likely to take time, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

7. The petition is allowed.

8. Since the main case has been allowed, pending application if any is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

14th September, 2023

Parveen Sharma

1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No