

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

CRM-M-35020-2022
Date of Decision:-**24.04.2023**

RAJWINDER SINGH ALIAS RAJI ... Petitioner

Versus

STATE OF PUNJAB ... Respondent

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Kunal Choksi, Advocate for the petitioner.

Mr. Sanish Girdhar, AAG, Punjab.

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KARAMJIT SINGH, J. (Oral)

1. Prayer is for grant of regular bail in case having FIR No.76 dated 20.08.2020 registered under Sections 22/25 of NDPS Act at Police Station Sadar Raikot, District Ludhaina (Rural).
2. The allegations in nut-shell are that police recovered 2,000 Clovidol-100 SR tablets containing Tramadol Hydrochloride from the petitioner on 20.08.2020 and since then the petitioner is in custody.
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 is behind bars for the last more than 02 years and 07 months. The counsel for the petitioner further submits that the trial is not progressing ahead. 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 the petitioner is entitled to grant of regular bail. 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 contraband recovered is covered under commercial quantity and further the trial is going on and already 5 prosecution witnesses have been examined. 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 having no criminal history and further only 05 out of total 12 witnesses have been examined on behalf of the prosecution.

5. I have considered the submissions made by counsel for the parties.

6. There is no doubt that the quantity of contraband recovered in the present case comes under commercial quantity as per the provisions of the Act, however, at the same time the petitioner is in custody for a period of last about 02 years and 07 months and is not involved in any other criminal case. Out of 12, only 05 witnesses have been examined by the prosecution till date and it will take considerable time for the trial to terminate.
7. In the given circumstances, the petitioner is able to make out a case within the ambit of Article 21 of the Constitution, which confers right of speedy trial. In view of the long incarceration of the petitioner, sufficient mitigating circumstances are made out for grant of bail even in the face of rigors of Section 37 of the 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 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.

(KARAMJIT SINGH)
JUDGE

24.04.2023
Gaurav Sorot

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