

229 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-37548 of 2022(O&M)

Date of Decision: 10.02.2023

Harjinder Singh @ Laddu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. B.K. Saini, Advocate
For the petitioner.**

Mr. C.L. Pawar, Addl. AG Punjab.

KARAMJIT SINGH, J.

The present petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case having FIR No. 97 dated 27.06.2021, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act at Police Station Kot Ise Khan, District Moga.

As per the allegations appearing on the record on 27.06.2021 the police apprehended the petitioner along with 24 strips each containing 10 tablets of Etizolam mouth dissolving tablets ETM-05 having batch No. 2101011, manufacturing date 01/2021 and expiry date 12/2022.

The counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and is in custody for the last more than 01 year and 07 months and is not involved in any other case under the Act. The counsel for the petitioner further submits that as per the prosecution version the police recovered Etizolam tablets ETM-05 having batch No. 2101011, manufacturing date 01/2021 and expiry date 12/2022 from the

petitioner and one of the said strips containing 10 tablets was separated as a sample and sent for analysis to FSL and report of FSL in this regard is received and copy of the same is Annexure P-2. The counsel for the petitioner further submits that as per the report of the FSL dated 02.08.2021 the strip containing 10 tablets received by the FSL was not bearing any batch number, date of manufacture and expiry date and thus the prosecution is unable to connect the said FSL report with the recovery of medical intoxicants which is stated to be effected from the petitioner in the shape of 24 strips containing 10 tablets each having specific batch number, date of manufacture and expiry date. The counsel for the petitioner further contends that apart from this the petitioner is in custody for the last more than 01 year and 07 months and the trial is not progressing and the petitioner is not involved in any other case of drug trafficking. So, prayer is made that the petitioner be granted regular bail.

Short affidavit of Ravinder Singh, Deputy Superintendent of Police Dharamkot, District Moga filed on behalf of the State is taken on record.

The present petition is contested by the State counsel who submits that 24 strips each containing 10 tablets of Etizolam mouth dissolving tablets ETM-05 having batch No. 2101011, manufacturing date 01/2021 and expiry date 12/2022 were recovered from the petitioner on 27.06.2021 and separate recovery memo was prepared in this regard. The inventory of the recovered medical intoxicants was also prepared in presence of the Magistrate and then one of the aforesaid strips was sent to FSL for analysis, in the shape of sealed parcel and the same was received by the

office of FSL with seals intact and on analysis 10 tablets contained in the said strip were found to be of Etizolam which is covered under the Act. The State counsel further submits that batch number, manufacturing and expiry date of the said tablets may have not been recorded in the report of FSL due to oversight and the said discrepancy is not fatal to the case of prosecution. The State counsel further submits that the total quantity of the contraband recovered comes under commercial quantity and as such rigors of Section 37 of the Act are applicable to the present case and resultantly he is not entitled to grant of bail at this stage when the trial is under progress.

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

As per the prosecution version, 24 strips each having 10 tablets of Etizolam tablets ETM-05 having batch No. 2101011, manufacturing date 01/2021 and expiry date 12/2022 were recovered from the possession of the petitioner on 27.06.2021, out of which 1 strip was sent as a sample for its analysis to the office of FSL. As per copy of report of FSL, Annexure P-2 one sealed parcel was received by the said laboratory and on opening the same it was found to be containing 1 strip having 10 tablets labeled as ETM-0.5. However, the report of FSL is silent as to whether any batch number, manufacturing date and expiry date was found written on the said sample strip of 10 tablets. Even this fact has been admitted by the State in the short affidavit which is filed today in the Court. So, it is doubtful as to if the said report of FSL, Annexure P-2 is relating to 24 strips each containing 10 tablets of Etizolam tablets ETM-05 having batch No. 2101011, manufacturing date 01/2021 and expiry date 12/2022.

In the present case, the petitioner is in custody for the last more than 01 year and 07 months and is not involved in any other criminal case under the Act as is evident from the custody certificate of the petitioner dated 09.02.2023. Further, there is nothing on the record to suggest that the petitioner if released on bail is likely to commit any such offence in future.

In the light of the above, this Court is of the view that the parameters of bail available under Section 37 of the Act appeared to have been satisfied in the instant case.

Thus, without commenting 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.

10.02.2023
Jiten

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No