

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

204

CRM-M-41827-2021

Date of decision: 09.01.2023

Rangeel Singh alias Neelu

...Petitioner

Versus

State of Punjab

...Respondents

CORAM: HON'BLE MR.JUSTICE SUVIR SEHGAL

Present: Mr. Ashish Aggarwal, Advocate
for the petitioner.

Mr. Anurag Bansal, AAG, Punjab.

SUVIR SEHGAL, J. (Oral)

This is the third petition filed under Section 439, Cr.P.C., seeking grant of regular bail in FIR No. 162 dated 08.09.2020, registered for offences under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “ the NDPS Act”), at Police Station Bhikhiwind, District Tarn Taran, Annexure P-1.

The case of the prosecution is that FIR, Annexure P-I, has been registered upon recovery of 2700 intoxicant tablets from Wazir Singh and Rangeel Singh alias Neelu, present petitioner, who were stopped on suspicion. Petitioner was arrested on 08.09.2020.

Counsel for the petitioner submits that allegedly recovery of 400 intoxicating tablets was effected from the petitioner that have been found to be containing 167 gram of Tramadol which falls in non-commercial category. He submits that the remaining recovery was effected from co-accused, Wazir Singh who has unfortunately expired. Placing reliance upon the judgment of the Supreme Court in *Amar Singh Ramjibhai Barot versus State of Gujarat (2005) 7 SCC 550*, he has argued that recovery effected from two accused cannot be clubbed together unless it is established that there was some conspiracy between them. He submits that the previous petitions filed

by the petitioner were withdrawn vide orders dated 03.03.2021 and 29.06.2021, Annexure P-7 and P-7A, respectively, but there is no progress in the trial.

Upon instructions from ASI, Sukhvir Singh, State counsel has opposed the petition and submitted that as the petitioner is accused of a serious offence under the NDPS Act, he cannot be released on bail as the total recovery effected from both the accused, when clubbed together, falls within the ambit of commercial quantity. As per further instructions, State counsel submits that out of 09 prosecution witnesses, none has been examined.

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

By order dated 23.08.2022, this Court directed the Senior Superintendent of Police, Tarn Taran, to file an affidavit explaining the delay in leading evidence. In his affidavit dated 29.10.2022, Senior Superintendent of Police, Tarn Taran, *inter alia*, stated that:-

“13. That it is further submitted that the delay for non-examining prosecution evidences in the present case is not intentionally and deliberately at the part of investigating agency, but due to reason explained above and the prosecution is undertakes to conclude the entire remaining prosecution witnesses before the Ld. Trial Court on the next date of hearing or any other date of hearing as convenient to the Ld. Trial court.”

Despite the fact that this affidavit has been filed 4 months earlier, no witness has been examined. Petitioner cannot be kept in confinement for an unending period to await the outcome of the trial which is at a nascent stage.

Despite opportunities, not a single prosecution witness has been produced, is reason enough to release the petitioner on bail considering the fact that he has been on detention for the last 28 months.

In view of the above facts and circumstances, this Court is

inclined to accept the prayer made in the petition.

Without advertng to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail during the pendency of trial, on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

09.01.2023
Harish Kumar

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