

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-37779-2022

Date of Decision: 7.2.2023

Yadwinder Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Mr. M.S.Nagra, AAG, Punjab

KARAMJIT SINGH, J.

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.08 dated 20.1.2021 registered for the offences punishable under Sections 22(C) of NDPS Act at Police Station City Rampura, District Bathinda.

The allegations in nutshell are that one person who was carrying polythene bag in his hand was seen coming by the police party. The said person on seeing the police officials got perplexed and tried to fled away but got slipped and fell on the ground and even the polythene bag which he was carrying also fell on the ground but in the meantime, the said person succeeded in running away while leaving behind the said polythene bag. On checking, the said polythene bag was found to be having 1500 tablets of RL-DOL 100 SR (Tramadol) having batch number, date of manufacture and expiry date and even aadhar card of the petitioner was also recovered from the said polythene bag. On the basis of the said recovery, the

petitioner was named as accused in the present case and arrested.

Counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and his aadhar card is falsely planted for that purpose by the police officials and that the petitioner is in custody for the last more than 11 months and is not facing any other criminal case under NDPS Act. He further submits that the trial is not progressing ahead and in this case, no test identification parade of the petitioner was conducted and he is simply made accused on the basis of the alleged recovery of the aadhar card.

The present petition is opposed by the State counsel who submits that in the present case, the petitioner while running away, had thrown the polythene bag which he was carrying. On checking of the same, 1500 intoxicating tablets having batch number, manufacturing date and expiry date bearing mark RL-DOL 100 SR (Tramadol) and one aadhar card of the petitioner were recovered. State counsel further submits that the said intoxicant tablets comes under commercial quantity of the contraband and that the petitioner who is in custody since last 11 months, is not entitled to grant of bail in light of the provisions of Section 37 of NDPS Act. However, the State counsel has not disputed the fact that the petitioner is having no criminal history under NDPS Act and further, he is suffering from HIV and Hepatitis C.

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

In the instant case, recovery was effected from the polythene bag which was left behind by the person who fled away from there on seeing the police officials. The identity of the said person will be

established only during the trial even if the prosecution is asserting that the aadhar card of the petitioner was found from the place of the aforesaid recovery. Admittedly, in the present case, no test identification parade was conducted and it is a matter of evidence as to whether the members of the police party were already knowing the petitioner who is stated to have run away from the spot. Further, the petitioner is having no criminal antecedent under NDPS Act and is in custody for the last about 1 year and it will take time for conclusion of trial as till date no prosecution witness has been examined. Thus, no fruitful purpose is going to be served by keeping the petitioner in custody for any further period.

In view of the above, 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.

(KARAMJIT SINGH)
JUDGE

February 7, 2023
Paritosh Kumar

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