

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36988-2023
Date of Decision:-16.11.2023

GURDEEP SINGH ... Petitioner(s)
Versus
STATE OF PUNJAB ... Respondent(s)

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH
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Present:- Mr. Arshdeep Singh Brar, Advocate,
for the petitioner.

Mr. Vinay Kumar Gupta, AAG, Punjab.

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KARAMJIT SINGH, J. (Oral)

1. This is the second petition filed under Section 439 Cr.P.C. for grant of regular bail in case having FIR No.16 dated 29.01.2020 registered under Section 21 of NDPS Act at Police Station Payal Police District Khanna.
2. The brief facts of the case are that on 29.1.2020 police received secret information against the petitioner and co-accused Ritesh Sharma and thereafter both of them were arrested and recovery 2.100 kilograms of heroin and drug money worth ₹8,85,000/- were recovered from car No.HR-38U-6069, in which both the accused were travelling.
3. The counsel for the petitioner, *inter alia*, contends that the petitioner is falsely implicated in the present case and that the petitioner is in custody for the last more than 3 years and 9 months and is having no

criminal history and that the trial is not proceeding ahead as the further proceedings in the trial are stayed by this Court vide order dated 23.9.2022 in CRR-1969-2022 filed by co-accused Ritesh Sharma. That it will take considerable time for the trial to conclude. So prayer is made that the petitioner be released on bail. The counsel for the petitioner has placed reliance on **Hasanujjaman & Ors. vs. The State of West Bengal, SLP (Crl.) No. 3221 of 2023, decided on 04.05.2023**, wherein also in case of commercial quantity of contraband, the accused has been granted bail on account of the fact that he was in custody for more than 1 year and 4 months.

4. The present petition is resisted by the State counsel, who submits that commercial quantity of contraband along with drug money were recovered from the petitioner. The State counsel further submits that the rigors of Section 37 of the Act are applicable to the present case. However, the State counsel has not disputed the fact that the petitioner having no criminal history is in custody for the last 3 years and 9 months and that the further proceedings before the trial Court are stayed by this Court vide order dated 23.9.2022.
5. I have considered the submissions made by counsel for the parties.
6. Admittedly, it is a case of recovery of commercial quantity of contraband and drug money. As per the custody certificate furnished by the State counsel, the custody period of the petitioner comes out to be 3 years and 9 months and the petitioner is not involved in any other criminal case. The prosecution examined 6 witnesses out of total 8 witnesses and thereafter prosecution filed an application under Section

311 Cr.P.C. to recall 3 PWs for their re-examination and the same was allowed vide order dated 29.8.2022. Against the said order co-accused Ritesh Sharma has filed revision petition wherein this Court while issuing notice of motion, stayed the further proceedings in the trial. In the given circumstances, it will take considerable time for the trial to conclude.

7. Admittedly the petitioner is in incarceration for the last 3 years and 9 months, which resulted in deprivation of his personal liberty without ensuring speedy trial and the same is not in consonance with the provisions of Article 21 of the Constitution of India. In view of the fact that the trial is being delayed, the embargo provided in Section 37 of the Act can be diluted to an extent and the petitioner can be enlarged on bail keeping in view the right to a speedy trial as mandated under Article 21 of Constitution of India.
8. 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.

16.11.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

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