

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

CRM-M-38854-2022(O&M)  
Date of decision:- 09.10.2023

Gurnam Singh

... Petitioner

Versus

State of Punjab

.. Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.R.S. Rawat, Advocate  
for the petitioner.

Mr.A.P.S. Tung, DAG, Punjab.

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SUVIR SEHGAL, J. (ORAL)

CRM-42997-2023

On oral request made by counsel for the applicant/petitioner, he is permitted to amend the petition.

Amended petition is taken on record.

Application is allowed.

CRM-M-38854-2022

1. This third petition has been filed under Section 439 Cr.P.C. seeking grant of post-arrest bail in:-

| FIR No. | Dated      | Police Station | Sections                              |
|---------|------------|----------------|---------------------------------------|
| 05      | 22.01.2021 | Sadar, Abohar  | 22 of Narcotic Drugs and Psychotropic |

|  |  |  |                                                   |
|--|--|--|---------------------------------------------------|
|  |  |  | Substances Act, 1985<br>(for short “the NDPS Act” |
|--|--|--|---------------------------------------------------|

2. Version of the prosecution is that FIR, Annexure P1, has been registered when a motorcycle was intercepted on suspicion and upon search, petitioner was found to be carrying 1450 tablets.
3. Counsel for the petitioner contends that allegedly 250 tablets of Clovidol 100 – SR were recovered from the petitioner and the total weight of salt, Tramadol Hydrochloride, is non-commercial. It is his submission that the remaining 1200 tablets allegedly found in possession of the petitioner do not contain any intoxicant substance. Counsel submits that the petitioner is languishing in custody since 22.01.2021 and deserves to be enlarged on bail as there is little possibility of an early conclusion of trial.
4. Per contra, learned State counsel upon instructions from ASI Surinder Singh and on the basis of FSL report dated 04.05.2021 has confirmed that the total weight of Tramadol recovered from the petitioner is 102.55 grams, approximately, which falls in non-commercial category. As per his instructions, two out of fifteen prosecution witnesses have been examined. He has filed custody certificate dated 08.10.2023 and submits that the petitioner is accused in two more criminal cases.
5. I have heard and considered the submissions made by counsel for the parties.
6. Undisputedly, recovery effected from the petitioner falls in the ambit of intermediate quantity as per the notification under the NDPS Act.
- Petitioner is in detention for the last more than 32 months and the trial is at a

nascent stage. Although there are two more criminal cases against the petitioner but noticing the quantity of contraband recovered, this Court has no hesitation in accepting the prayer made in the petition as the bar under Section 37 of NDPS Act does not come in his way.

7. 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 on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned. The petitioner shall furnish a solvent local surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

8. 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

09.10.2023  
Brij

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|---------------------------|--------|
| Whether Speaking/Reasoned | Yes/No |
| Whether Reportable        | Yes/No |