

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

**CRM-M-39320 of 2022
Date of Decision:- 30.01.2023**

Jaswinder Singh @ Sarbi

....Petitioner

Vs.

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Tribhawan Singla, Advocate
for the petitioner.

Mr. C.L Pawar, AAG, Punjab.

KARAMJIT SINGH, J.(Oral)

Prayer is for grant for regular bail to the petitioner in case having FIR No.29 dated 28.04.2022 registered under Sections 22 and 29 of Narcotic Drugs and Psychotropic Substances Act 1985, (Section 29 was added later on) at Police Station Rure Ke Kalan, District Barnala.

The allegations in a nutshell are that the petitioner was apprehended by the police on 28.04.2022 and 430 intoxicant tablets of tramadol hydrochloride were recovered from his possession and during the investigation, the petitioner further disclosed that he

purchased the said intoxicant tablets from co-accused Kala Singh and thereafter, said Kala Singh was arrested and 480 intoxicant tablets containing tramadol hydrochloride were recovered at his instance.

The counsel for the petitioner inter alia contends that the petitioner is falsely implicated in the present case and is in custody for the last more than 9 months and after completion of investigation, the police has presented the challan and further co-accused Kala Singh from whom police recovered 480 tablets of tramadol hydrochloride has been granted regular bail vide order dated 14.11.2022, Annexure A-1. The counsel for the petitioner further contends that the recovery of 430 tablets of tramadol hydrochloride comes under non-commercial quantity and no purpose is going to be served by detaining the petitioner in custody for any longer period.

The present petition is contested by the State counsel who submits that during investigation, the petitioner disclosed the name of co-accused Kala Singh from whom 480 intoxicant tablets of tramadol hydrochloride were recovered. The State counsel further submits that earlier, to that 430 tablets of tramadol hydrochloride were recovered from the possession of the petitioner and the total recovery comes under commercial quantity and as such, the petitioner is not entitled to get the benefit of regular bail. However, the State counsel has not disputed the fact that the petitioner is in custody for the last more than 9 months and is having no criminal history and that the police has presented the challan against the accused persons and

co-accused Kala Singh is already enlarged on bail vide order Annexure A-1.

It is a debatable issue as to whether the recovery of 480 intoxicant tablets from the possession of co-accused Kala Singh is also to be considered from conscious possession of the petitioner, from whom only 430 intoxicating tablets are stated to be recovered and whether the actual recovery of contraband from the petitioner is to be considered as commercial or non-commercial quantity. Further, the relevance and veracity of alleged disclosure made by the petitioner against co-accused Kala Singh is to be tested during the trial. Furthermore, co-accused Kala Singh is released on regular bail vide order dated 14.11.2022, Annexure A-1. Admittedly, the petitioner is in custody for the last more than 9 months and it will take considerable time for the trial to conclude. In these circumstances, further detention of the petitioner is not going to serve any useful purpose.

Thus, without commenting on the merits of the case, the present petition is hereby allowed and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the CJM/Duty Magistrate concerned.

30.01.2023

P. Chawla

**(KARAMJIT SINGH)
JUDGE**

Whether reasoned / speaking?

Yes / No

Whether reportable?

Yes / No