

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-41979-2022

Date of Decision: 19.9.2023

Mohinder Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Karanjeet Singh Brar, Advocate
for the petitioner.

Mr. Vinay Kumar Gupta, 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.76 dated 23.5.2021 registered for the offences punishable under Sections 22 of NDPS Act at Police Station Gurharsahai, District Ferozepur.

2. Brief facts of the case are that on 23.5.2021, the police apprehended one Ritz Car bearing No.HR-51-AM-4311 which was driven by co-accused Mal Singh and in which, the petitioner was travelling and on search of the said car, 2400 tablets of Clavidol-100 SR were recovered which comes under commercial quantity of contraband as per the provisions of NDPS Act. The petitioner and Mal Singh were arrested at the spot.

3. Counsel for the petitioner *inter alia* submits that the petitioner who is aged about 72 years, has been falsely implicated in the present case and is in custody for the last more than 2 years and 3 months and that the trail is not progressing ahead and that the petitioner is having no criminal

history. So, prayer is made that the petitioner be released on regular bail during the pendency of the trial. In support of his contentions, counsel for the petitioner has placed reliance upon **Hasanujjaman and others v. The State of West Bengal**, Special Leave to Appeal (Crl.) No.3221 of 2023 decided on 4.5.2023 wherein also in a case of commercial quantity of contraband, the accused has been granted bail by Hon'ble Supreme Court on account of the fact that the accused was in custody for more than 1 year and 4 months.

4. Instant petition is opposed by the State counsel who on instructions from ASI Mahal Singh, submits that in the present case, commercial quantity of contraband was recovered from possession of the petitioner and co-accused Mal Singh and as such, rigors of Section 37 of NDPS Act are applicable to the present case. However, the State counsel has not disputed the fact that the petitioner, who is having no criminal history, is in custody for the last more than 2 years and 3 months and till date, only 4 witnesses have been examined on behalf of the prosecution out of total 13 witnesses.

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

6. Admittedly, the petitioner is in custody for the last more than 2 years and 3 months and is having no criminal history and it will take considerable time for the trial to terminate. In view of the fact that the trial is being delayed, embargo provided under Section 37 of the NDPS 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 the Constitution of India.

7. 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 regular 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

September 19, 2023

Paritosh Kumar

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No