

205 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40658-2023
DECIDED ON: 28th AUGUST, 2023

SANDEEP SINGH @ SEEPA

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Karandeep Singh Sidhu, Advocate, for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been preferred under Section 439 Cr.P.C., seeking regular bail in FIR No.90, dated 24.09.2021, under Section 22(c) of NDPS Act, 1985, registered at Police Station Bajakhana, District Faridkot.
2. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case and no recovery has been effected from the possession of the petitioner. It is asserted by the counsel for the petitioner that the recovery i.e. 2000 tablets of Tramadol Hydrochloride has been effected from the possession of the co-accused Angrej Singh @ Geja, who was pillion rider on the motorcycle, which was driven by the petitioner. It is further asserted that there is a non-compliance of Section 50 of the NDPS Act.
3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. As per the custody certificate the petitioner has undergone incarceration for a period of 1 year 11 month and 3 days and is not

involved in any other case of any nature, which shows that he is having clean antecedents.

4. Considering the facts in totality that the petitioner has suffered incarceration of 1 year, 11 months and 3 days and alleged recovery is disputed to have been effected from the conscious possession of the petitioner, who is claiming false implication, which cannot be ruled out looking into the totality of facts and circumstances, as narrated in the FIR alone added with facts that investigation is completed; challan stands presented and conclusion of trial shall take sufficient long time, no fruitful purpose would be served by keeping the petitioner behind the bars for an indefinite period, which would also violate the principle of Article 21, as has been discussed hereinabove.

5. In the light of the above discussions made hereinabove as well as judgment of Apex Court rendered in *Dheeraj Kumar Shukla vs. State of Uttar Pradesh, SLP(Crl) No.6690 of 2022*, wherein it has been held that though the quantity recovered from the petitioner is commercial in nature and the provisions of Section 37 of the Act may ordinarily be attracted. However, in the absence of criminal antecedents and the fact that the petitioner is in custody for the last 1 year 11 months and 3 days, we are satisfied that the conditions of Section 37 of the Act can be dispensed with, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

6. The present petition is, hereby, allowed.

(SANDEEP MOUDGIL)
JUDGE

28th AUGUST, 2023

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Whether speaking/reasoned Yes/No

Whether reportable Yes/No