

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

CRM-M-47190-2021
Date of Decision:-**01.03.2023**

SUKHWANT SINGH ALIAS SUKH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

-.-

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-.-

Present:- Mr. Vikas Gupta, Advocate
for the petitioner.

Ms. Kanica Sachdeva, AAG, Punjab.

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KARAMJIT SINGH, J. (Oral)

Prayer is for grant of regular bail in case having FIR No.68 dated 17.04.2021 registered under Sections 22(c) of NDPS Act at Police Station City Tarn Taran District Tarn Taran.

As per the allegations appearing on the record, the police apprehended the petitioner who was carrying balck polythene bag having 200 strips of Tramadol (celcidal-100 SR) each containing 10 tablets having batch No.21-A-T004 manufacturing date April, 2021 and expiry dated

March, 2023 out of which 2 strips each containing 10 tablets were separated as a sample and the same was sent for analysis.

The counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. That no such recovery was effected from the petitioner. That as per the notice issued under Section 50(A) NDPS Act, which was served before effecting the search of the polythene bag, the offence under Section 22-C NDPS Act has been printed on the top of the said notice. The counsel for the petitioner submits that it is not clear how the police officials came to know as to what was there in the polythene bag held by the petitioner in his hand, before checking its contents. The counsel for the petitioner further contends that the recovery memo whereby the police took into possession the alleged medical intoxicants, it not bearing the signatures of the petitioner. The counsel for the petitioner further submits that the report of the FSL is silent regarding batch number, manufacturing date and expiry date and thus the prosecution has failed to connect the said FSL report with the medical intoxicants stated to be recovered from the petitioner vide recovery memo dated 17.4.2021. The counsel for the petitioner further submits that the petitioner is in custody for the last 1 year and 10 months and is having no criminal history and the trial is not progressing ahead. So prayer is made that the petitioner be released on regular bail.

The instant petition is resisted by the State counsel, who submits that commercial quantity of medical intoxicants were recovered from the possession of the petitioner by the police on 17.4.2021. The State counsel further submits that the petitioner refused to sign the recovery memo

at the place of recovery. The State counsel further submits that the sample was separated and sealed before the learned Magistrate and the sealed parcel reached the office of FSL in its intact condition and as per the report of FSL the tablets were found to be that of Tramadol Hydrochloride and their total quantity comes under commercial quantity. However, the State counsel has not disputed the fact that the petitioner is in custody for the last 1 year and 10 months and trial is at its initial stage.

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

As per the counsel for the petitioner, the prosecution story is doubtful as in the very beginning before checking the contents of the polythene bag, the police officials issued notice to the petitioner under Section 50-A NDPS Act and on the top of the said notice offence under Section 22-C/61/85 of the NDPS Act was written, and further the recovery memo is not bearing the signatures of the petitioner and further the report of the FSL is silent regarding batch number, manufacturing and expiry date of the medical intoxicant which were stated to be recovered from the petitioner. All these issues are debatable issues which are subject matter of the trial.

Admittedly the petitioner is in custody for the last more than 1 year and 10 months and is having no criminal history and till date no prosecution witness has been examined and in all the prosecution is to examine 13 witnesses.

In the given circumstances, as it will take considerable time for the trial to conclude, no fruitful purpose is going to be served by prolonging the judicial custody of the petitioner for indefinite period.

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

01.03.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No