

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48187-2022
Date of Decision:-03.08.2023

SARWAN SINGH ... Petitioner
Versus
STATE OF PUNJAB ... Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Karnail Singh Ahhi, Advocate
for the petitioner.
Mr. Rohit Ahuja, DAG, Punjab.

KARAMJIT SINGH, J. (Oral)

1. The present second petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case having FIR No.09 dated 01.02.2020, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act (for short 'the Act'), Police Station Ghuman, Police District Batala.
2. The brief facts of the case are that on 01.02.2020, the police recovered 3000 intoxicating tablets of white colour, 1420 intoxicating tablets of orange colour and 580 intoxicant tablets make Ridley and the petitioner was arrested at the spot.
3. The counsel for the petitioner, *inter alia*, contends that the petitioner is falsely implicated in the present case and no contraband has been ever recovered from his possession. The counsel for the petitioner further

submits that as per prosecution version 3 sets of loose tablets and in total 5,000 loose tablets were recovered from possession of the petitioner. The counsel for the petitioner further submits that however only 50 tablets from each set were separated as samples and were sent for their examination to the FSL. The counsel for the petitioner further submits that thus weight of only aforesaid 150 tablets is to be counted to assess the total quantity of contraband. The counsel for the petitioner further submits that the petitioner is in custody for the last more than 2 years and 3 months and is already acquitted in 2 other cases of similar nature and has been granted bail in 1 another case under the Act. The counsel for the petitioner further submits that the trial is not progressing ahead. So prayer is made that the petitioner be released on bail. The counsel for the petitioner has placed reliance on **Hasanujjaman & Ors. vs. The State of West Bengal, SLP (Crl.) No. 3221 of 2023, decided on 04.05.2023**, wherein also in case of commercial quantity of contraband, the accused has been granted bail on account of the fact that he was in custody for more than 1 year and 4 months.

4. The present petition is resisted by the State counsel who submits that commercial quantity of contraband was recovered from the petitioner. It is further submitted that proper samples were taken out of the recovered contraband as per the statutory provisions. That as per the report of FSL, the samples reached the said laboratory in their intact condition. The State counsel further submits that the rigors of Section 37 of the Act are applicable to the present case. However, the State

counsel on instructions from ASI Saroop Singh has not disputed the fact that the petitioner is in custody for the last more than 02 years and 03 months and is facing one another criminal case under the Act, wherein he is already enlarged on bail. The State counsel further apprised the Court that till date, no prosecution witness has been examined.

- 5. I have considered the submissions made by counsel for the parties.
- 6. Admittedly, the custody period of the petitioner comes out to be 2 years and 3 months and the trial is not progressing ahead as till date no witness on behalf of prosecution has been examined. Further, the petitioner is already granted bail in another criminal case faced by him under the Act. In the given circumstances, it will take considerable time for the trial to conclude. In view of the fact that the trial is being delayed, the embargo provided in Section 37 of the 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 Constitution of India.
- 7. Thus, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned

03.08.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No