

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46596-2023
DECIDED ON: 22.09.2023

INDERJIT SINGH
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ashok Kumar Khunger, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., for the 3rd time seeking regular bail to the petitioner in FIR No. 0010 dated 21.01.2022, under Section 22(c) of the NDPS Act, 1985, registered at Police Station Sadar Shri Muktsar Sahib, District Shri Muktsar Sahib.
2. Since, the exact quantity of contraband cannot be ascertained, the number of tablets i.e, 920 in itself is suffice to make out for this Court that the salt of *tramadol* would not be more than 750 or 800 grams and from perusal of the FIR, it is abundantly clear that the manufacturing date of the tablets is 12/2020, whereas expiry date is 11/2022.
3. The contention raised by the counsel for the petitioner is also doubting the prosecution story, as while entering into the house, the plastic box was in the hand of the petitioner, who on seeing the police party threw the same inside the house.. In such an eventuality, he would have otherwise thrown the box out of his house to disown the contraband, if any was there.

4. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to the custody certificate, the petitioner is behind the bars for the last 1 year, 8 months and 1 days. He prays for dismissal of the instant petition stating that the petitioner is apprehended with commercial quantity i.e., 920 intoxicant tablets without having any licence or any authorisation to keep the same. It is also asserted by learned State counsel that once the petitioner was apprehended, he could not explain the purpose having in possession of the said contraband.

5. Having heard, learned counsel for the respective parties.

6. After having gone through the record and on perusal of the FIR, the story of the prosecution creates doubts as it has come in the FIR itself that on seeing the police party, the petitioner has thrown the plastic box inside the house, when he was entering the home and in fact, this argument of the petitioner also finds strength that in such eventuality, he would have thrown the bag out of the house to disown the said contraband and otherwise also the case of single accused in this recovery, who has already suffered 1 year, 8 months, 1 day of custody cannot be allowed to keep behind the bars for an indefinite period, wherein bail is a rule and jail is an exception and it would also violate the principle of right to speedy trial and expeditious disposal under Article 21 of Constitution of India, as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***, as out of total 15 prosecution witnesses, only 3 stands examined, after framing the charges on 01.09.2022.

7. Looking into the totality of facts and circumstances of the case, this petition deserves to be allowed. Hence, the petitioner is directed to be released on

Court/Duty Magistrate, concerned.

8. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

22.09.2023

(SANDEEP MOUDGIL)
JUDGE

Meenu

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>