

S. No.204

2023:PHHC:153107

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

CRM-M-52562 of 2022 (O&M)

Date of Decision:01.12.2023

**Gurdeep Singh @ Comrade
Vs.**

.....Petitioner

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Sandeep Verma, Advocate for the petitioner.
Mr. R.S. Khaira, DAG, Punjab.

DEEPAK GUPTA, J. (Oral)

Rejoinder to the reply has been filed on behalf of the petitioner.

By way of present petition filed under Section 439 Cr.P.C., petitioner prays for grant of regular bail in case FIR No.16 dated 17.02.2020 registered under Sections 22 and 25 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station City Sadar Raikot, District Ludhiana.

As per allegations, 3,000 intoxicating tablets were recovered from the possession of petitioner and co-accused Resham Singh.

Learned counsel for the petitioner contends that petitioner is in custody for at least 01 year and 08 months and that similarly co-accused Resham Singh has already been allowed bail on 28.10.2021 passed in CRM-M-27720 of 2021 (Annexure P.3).

Learned State Counsel has opposed the bail petition by pointing towards the commercial quantity of the contraband. Learned State Counsel further refers to the custody certificate, as per which, custody period of the petitioner is 09 months and 08 days in the present case.

By way of rejoinder filed today, learned counsel for the petitioner has pointed out that petitioner was earlier taken into custody on 20.02.2020 and was released on interim bail on 26.04.2020, as was noticed on 22.09.2023, till the receipt of the FSL report. Learned counsel further contends that thereafter, petitioner was arrested in case FIR No.5 dated 11.01.2021 registered under Sections 22 and 29 of the NDPS Act, and was transferred to District Jail, Sangrur. Later on, he was apprehended again in another case bearing FIR No.62 dated 07.09.2021 under Sections 22 and 29 of the NDPS Act, on the basis of disclosure statement of the co-accused and that the petitioner is in custody in that case since the date of his arrest.

Learned counsel then drawn attention towards the various zimni orders as passed by the trial Court in the present case so as to contend that production warrants of the petitioner were being regularly issued and that the petitioner was produced before the Court on 07.09.2022, on which date, charges were framed. Learned counsel contends that at least from 07.09.2022 till date, the custody period of the petitioner should be counted in the present case also.

I agree with the afore-said contention of learned counsel for the petitioner. Since after issuance of production warrants, the petitioner was produced before the trial Court on 07.09.2022 and the charges were framed, therefore, custody of the petitioner is to be taken into account from 07.09.2022 till date continuously. After counting the period of his custody from 20.02.2020 to 26.04.2020, during which he remained in custody, the total period of custody of the petitioner works out to almost 01 year 05 months. Co-accused Resham Singh has already been allowed bail by this Court.

Though petitioner is involved in two more cases pertaining to the NDPS Act but it is contended by learned counsel for the petitioner that in both the cases, he was nominated on the basis of disclosure statement of the co-accused under Section 29 of the NDPS Act. It is also informed that out of 10 witnesses cited by the prosecution, only five have been examined so far.

Having regard to the afore-said facts and circumstances and also on the basis of parity, but without commenting anything on the merits of the case, present petition is allowed. Petitioner is admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/ Duty Magistrate concerned.

December 01, 2023

renu

Whether Speaking/reasoned

Whether Reportable

(DEEPAK GUPTA)

JUDGE

Yes/No

Yes/No