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

**CRM-M-47783-2019 (O&M)
Date of decision-21.02.2023**

Bhagwan Singh @ Raju

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Sandeep S. Majithia, Advocate for the petitioner.

Ms. Shivani Sharma, DAG, Punjab.

MANOJ BAJAJ, J. (Oral)

CRM-7835-2023

Application is allowed as prayed for.

Photocopies of interim orders from 06.03.2019 till 12.01.2023

(Annexures P-7 to P-51) are taken on record.

CRM-M-47783-2019

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.184 dated 12.10.2018 registered under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Patti, District Tarn Taran, who is in custody since his arrest on 12.10.2018.

The allegations in the FIR as noticed by the Additional Sessions Judge/ Judge, Special Court, Tarn Taran in the order dated 25.02.2019 declining the petitioner's bail application, read as under:

“From the perusal of record, it is revealed that 16800 i.e. Clovidol-100 SR, Tramadol-Hydrochloride 100 MG total 12000 and Prozolam-05, EPIZOLAM0.5 MG total 4800 were allegedly recovered from the conscious possession of the applicant-accused. The report of Chemical Examiner has been received showing that the intoxicant tablets contained Etizolam and Tramadol Hydrochloride respectively. Etizolam does not come under the ambit of NDPS Act. But Tramadol-Hydrochloride falls in the category of commercial quantity.”

Learned counsel for the petitioner has argued that the petitioner is in custody for a long period, who is not involved in any other case, but after framing of charges on 05.02.2019, only two prosecution witnesses have been examined out of total nine witnesses. He prays for bail.

Learned State counsel, assisted by ASI Gurdev Singh has opposed the prayer on the ground that the quantity recovered from the petitioner falls within the ambit of commercial quantity. Learned State counsel has produced the custody certificate dated 19.02.2023 by way of affidavit of Kirpal Singh, Official Deputy Superintendent of Central Jail, Goindwal, which indicates that petitioner has been behind bars for a period of 4 years, 4 months and 7 days. Further, it is not disputed by learned State counsel that the prosecution has examined only two witnesses.

After hearing the learned counsel for the parties and considering the above background, particularly, the custody of the

petitioner, who is behind the bars for the period of more than 4 years, this Court finds that the petitioner is not involved in any other case of similar nature and in the present case, the trial is progressing at a slow pace as only two prosecution witness have been examined after framing of charges on 05.02.2019. It becomes clear that the conclusion of the trial would take considerable time as seven witnesses are yet to be examined, therefore, considering the custodial period of the petitioner, his further detention behind the bars may not be necessary for any useful purpose. Apart from it, the material witnesses are police officials and at present there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

(MANOJ BAJAJ)
JUDGE

21.02.2023
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No