

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-57332-2022

Date of Decision: 7.8.2023

Taljinder Singh alias Teji

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. M.S.Saini, Advocate
for the petitioner.

Mr. Gurpreet Singh, Addl. AG, Punjab.

KARAMJIT SINGH, J. (Oral)

Prayer in this 2nd petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.76 dated 12.8.2021 registered for the offences punishable under Sections 22 of NDPS Act at Police Station Dhilwan, District Kapurthala.

2. Brief facts of the case are that 105 intoxicant tablets were recovered from the petitioner and he was arrested in this case on 12.8.2021 and since then he is in custody.

3. Counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and that no contraband was recovered from conscious possession of the petitioner. It is further submitted that the petitioner is in custody for the last about 1 year and 9 months and the trial is not progressing ahead and that no purpose is going to be served by detaining the petitioner in custody for any longer period. So prayer is made

that petitioner be released on bail. In support of his contentions, the counsel for the petitioner has placed reliance on **Hasanujjaman & Ors. v. 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 intoxicants tablets were recovered from the petitioner. It is further submitted that the trial is going on and that rigors of Section 37 of NDPS Act are applicable to the present case. However, the State counsel has not disputed the fact that petitioner is in custody for the last about 1 year and 9 months and is having no criminal history and that the trial is at its initial stage.

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

6. As per prosecution case, 105 intoxicant tablets were recovered from possession of the petitioner and he has been in custody since 12.8.2021. As per custody certificate furnished by the State counsel, custody period of the petitioner comes out to be 1 year, 9 months and 7 days and the petitioner is having no criminal history. Till date, prosecution is able to examine only 2 witnesses out of total 14 witnesses. So, it will take time for conclusion of trial. In the given circumstances, there is delay in trial especially when it is not the fault of the accused, in that situation, the effect of Section 37 of the NDPS Act will be diluted.

7. For the foregoing reasons, 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.

8. However, observations, if any, made hereinabove is not to be considered as expression of opinion on the merits of the case.

(KARAMJIT SINGH)
JUDGE

August 7, 2023
Paritosh Kumar

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