

[205] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55273-2023

Date of Decision :09.11.2023

Tarsem Singh @ Sema

...Petitioner

versus

State of Punjab

....Respondent

Coram : **HON'BLE MR. JUSTICESANDEEP MOUDGIL**

Present : Mr. Jashandeep Singh Sandhu, Advocate and
Mr. AbhinavPrashar, 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., seeking regular bail to the petitioner in FIR No.67, dated 26.10.2021, under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity 'the Act') registered at Police Station GRP Sangrur, District Sangrur, Punjab.

2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and recovery of 4140 intoxicant tablets of *Lomotil Diphenoxylate Hydrochloride & Atropine Sulphate Tablets IP* has been planted upon him. He further submits that there is non-compliance of Section 42, 50 and 52 of the NDPS Act. The petitioner is in custody since 28.10.2021.

3. Learned State Counsel has filed the Custody Certificate of the petitioner, which is taken on record, which reflects that the petitioner has

of the instant petition stating that the recovery effected from the petitioner is of commercial in nature and he is not having clean antecedents as he is involved in another case bearing FIR No.105 dated 13.06.2020 under Sections 61/1/14 of the Excise Act, Police Station Muktsar City.

4. However, looking into the totality of the facts as well as version narrated in the FIR, which is evident that the alleged recovery of contraband is not from the physical possession of the petitioner but Sub Inspector-Jaswinder Singh, 862 has himself informed that the strips of narcotics pills were scattered all around and were collected and only thereafter the petitioner was nominating in the present case, who has just got down from the last compartment of a train at Ubhawal Railway Crossing Gate.

5. Be that as it may, considering the custody period undergone by the petitioner and the fact that out of total 12 prosecution witnesses, only 03 have been witnesses examined after framing the charges on 02.07.2022, meaning thereby, the conclusion of trial shall take considerable time, this Court is of the view that no useful purpose would be served by keeping the petitioner 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 the judgment of the Apex Court passed in **Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131.**

6. In view of the discussions made hereinabove, the petitioner is

to the satisfaction of the trial Court/Duty Magistrate, concerned.

- 7. The present petition is, hereby, allowed.
- 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.

(SANDEEP MOUDGIL)
JUDGE

09.11.2023
'Rajneesh'

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