

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-58588-2022 (O&M)
Date of decision: 16.08.2023

Gurdev Singh @ Baba

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Dr. (Mr.) Rau P.S. Girwar, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG Haryana with
ASI Sumit Kumar.

HARNARESH SINGH GILL, J. (ORAL)

1. Through this third petition, the petitioner seeks regular bail in case bearing FIR No.70 dated 10.04.2020, registered at Police Station Ding, District Sirsa, under Sections 18(A) (I) and 18(C) of the Drugs and Cosmetics Act, 1940 and Section 22(c) NDPS Act, 1985.
2. Pursuant to the order dated 06.07.2023 passed by this Court, ASI Sumit Kumar (Investigating Officer) is present in the Court.
3. Reply by way of affidavit dated 01.08.2023 of the ASI Sumit Kumar, Police Station Ding, District Sirsa, submitted by the learned State counsel in the Court, is taken on record.
4. As per the prosecution version, recovery of 45 vials of 100 ML each RX Chlorpheniramine Maleate and Codeine Phosphate Syrup Win CRIEX Cough Syrup bearing Batch No. WCRS 1125, 45 vials of 100 ML each RX Chlorpheniramine Maleate and Codeine Phosphate Syrup KOP FREE Cough Syrup bearing Batch No. KFRS 1018 and 75 Alprazolam

Tablets IP 0.5 mg bearing Batch No. 4229020 and 1000 RX Carisoprodol Tablets IP Carisoma, bearing Batch No.CAR 9009, containing in a bag, was effected.

5. Learned counsel for the petitioner submits that after the arrest, the alleged contrabands confiscated by the investigation agency, are entirely different from the recovery allegedly effected at a later stage, and that the prosecution agency has not complied with the Chapter-6 of the Drug Law Enforcement Field Officer Handbook issued by Narcotics Control Bureau, Ministry of Home Affairs, Govt. of India.

6. Learned counsel for the petitioner further submits that the petitioner has falsely been implicated in the present case; that though the recovery effected in the present case falls under the commercial quantity, but the fact remains that the petitioner has been in custody for the last 03 years, 02 months and 23 days and that out of 14 prosecution witnesses, only 11 have been examined so far. It is further submitted that in another case under the NDPS Act, the petitioner is on bail.

7. On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that recovery effected in the present case, falls under commercial quantity and that Section 37 NDPS Act bars the grant of bail to the accused in case of commercial quantity. It is further submitted that 03 prosecution witnesses are yet to be examined. She does not dispute the custody period of the petitioner.

8. I have heard the learned counsel for the parties.

9. Indisputably, the recovery effected in the present case, falls under commercial quantity, but the fact remains that the petitioner has been in custody for the last 03 years, 02 months and 23 days. Remaining 03 prosecution witnesses are yet to be examined. In another case under the NDPS Act, the petitioner is on bail. Trial is unlikely to conclude any time soon.

10. In view of the above, this Court finds that no useful purpose would be served by keeping the petitioner behind the bars. Resultantly, without commenting anything on the merits, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

(HARNARESH SINGH GILL)
JUDGE

16.08.2023
Mangal Singh

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