

214 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Neutral Citation No. 2024:PHHC:007197
CRM-M-1622-2024
Date of Decision: January 19, 2024

Ashok Kumar @ Daini

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Ajay Singla, Advocate for
Mr. Nirmaljeet Singh Sidhu, Advocate for the petitioner.

DEEPAK GUPTA, J.(Oral)

By way of present petition filed under Section 439 Cr.P.C., petitioner prays for his release on regular bail in case FIR No.79 dated 27.05.2021, under Section 22 (Act No.61 of 1985) of the NDPS Act, registered at Police Station City-2, Mansa, District Mansa.

2. This is the second petition. The earlier petition bearing CRM-M-26527-2022 was dismissed as withdrawn with liberty to file at appropriate stage, vide order dated 29.04.2023 (Annexure P-3).

3. As per allegations, 12 vials of 100 ml. each, i.e. 120 ml. containing the salt of codeine phosphate were recovered from the possession of the petitioner on 27.05.2021, apart from 120 tablets of carisoma.

4. Learned counsel for the petitioner contends that as far as carisoma is concerned, it does not fall in NDPS Act. Learned counsel further submits that petitioner is in custody for the last more than 02 years and 06 months, having no other criminal case pertaining to NDPS Act; that the trial may take time to conclude and that in all these circumstances, so he be allowed bail.

5. Notice of motion.

6. Mr. Hakam Singh, AAG, Punjab accepts notice on behalf of respondent-State.

7. Learned State counsel has opposed the bail petition by submitting that commercial category of codeine phosphate starts from 1000 ml. and therefore, recovery of 1200 ml. of codeine phosphate in this case falls in the commercial category. However, learned State counsel concedes the fact that petitioner is not involved in any other case pertaining to NDPS Act, though involved in 04 other cases pertaining to Gambling Act or Excise Act. Custody certificate also reveals that petitioner is in custody for the last 02 years, 06 months and 23 days in the present case. It is informed by learned State counsel that out of 12 witnesses cited by the prosecution, 05 have already been examined.

8. In the aforesaid circumstances, the rigor of Section 37 of the NDPS Act is required to be balanced with Article 21 of the Constitution of India providing for the fundamental right of the life and liberty, of which the right of speedy trial forms part.

9. Having regard to the aforesaid facts and circumstances, particularly the custody period of the petitioner, but without commenting anything on the merits of the case, the petitioner is admitted to bail. He is ordered to be released on bail on his furnishing requisite bail bonds and surety bonds to the satisfaction of learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

Allowed.

January 19, 2024
sarita

(DEEPAK GUPTA)
JUDGE

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