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

CRM-M-3065-2024

Date of decision : 18.09.2024

Lal Singh

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Barjinder Singh, Advocate
for the petitioner.

Mr. J.S. Arora, D.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed by the petitioner under Section 439 Cr.P.C. praying for grant of regular bail in case FIR No.85 dated 19.06.2023, under Sections 22, 61 and 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Shambu, Patiala.

2. Adumbrated facts of the case are that the Police party on 19.06.2023 stopped one bus coming from Ambala side and started checking the passengers. One young man was holding a polythene bag in his hand, started walking towards Ambala side and on suspicion he was stopped. On seeing the police, he threw the polythene bag. On suspicion he was stopped and the polythene he had thrown by him was checked. On checking the same 1020 intoxicant tablets having make Alprazolam, was recovered from him. The young man disclosed his name as Lal Singh (petitioner). He failed to produce any licence for possession of the



intoxicant tablets and thus, the FIR was registered and he was arrested on spot. The samples of the contraband recovered were taken and sent to the FSL. Thereafter, the petitioner approached the Learned Judge, Special Court Patiala for grant of bail, however, after hearing both the sides, the same was declined by the Learned Judge, Special Court, Patiala vide order dated 19.09.2023. Aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

3. It has been contended by counsel for the petitioner that petitioner has been falsely implicated in the present case. He submits that the alleged recovery is from the petitioner while travelling in the Bus and thus, it is evident that the same was carried out in the public place from a public vehicle. However, no public witness has been joined by the investigating agencies. It is submitted that the quantity recovered as per the FSL report is weighing 127.5 grams Alprazolam whereas the commercial quantity is above 100 grams. He submits that there is violation of Section 50 of the NDPS Act. He submits that the petitioner has no criminal antecedents as he has never been involved in any criminal case. It is submitted that the petitioner is behind bars since the date of his arrest and till date there is no material progress in the trial. It is submitted that the speedy trial is the right of every accused, even the same has been defeated in the present case. He submits that in the facts and circumstances of the present case, petitioner deserves to be granted regular bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner and has submitted that the recovery was effected from the bag carried by the petitioner. It is submitted that on checking the same, 1020 intoxicant tablets were



recovered from the polythene bag thrown by the petitioner. He submits that the tablets recovered were sent to the FSL and the same were endorsed by the report received. It is submitted that total weight of the contraband recovered is 127.5 grams which falls under the commercial quantity and thus, the provisions of Section 37 of NDPS Act are attracted in the present case.

5. Heard. On hearing counsel for the parties and perusing the record, it is apparent that 1020 intoxicant tablets were recovered while the petitioner was travelling in a bus. The recovery was made from a public place, however, no independent witness was joined by the prosecution in the present case. The custody certificate produced would show that the petitioner is behind bars from last more than 01 year. It further reveals that he has no criminal antecedents as he has never been involved in any other criminal case. Till date only 01 prosecution witness out of 12 witnesses has been examined by the prosecution before the trial Court.

6. In view of the facts and circumstances of the present case, this Court cannot ignore the fact that the speedy trial is the fundamental right of every accused. As held by the Hon'ble Supreme Court in **Mohd Muslim @ Hussain Vs. State (NCT of Delhi), 2023 LiveLaw(SC)260**, this Court is of the opinion that the case of the petitioner is covered by the ratio laid down by the Hon'ble Supreme Court. In the abovesaid case Hon'ble Supreme Court expressed its views as under:-

19. A plain and literal interpretation of the conditions under Section 37 (i.e., that Court should be satisfied that the accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special



conditions as enacted under Section 37 can be considered within constitutional parameters is where the court is reasonably satisfied on a prima facie look at the material on record (whenever the bail application is made) that the accused is not guilty. Any other interpretation, would result in complete denial of the bail to a person accused of offences such as those enacted under Section 37 of the NDPS Act.

20. xxxxx

21.it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable.

22. xxxxx

23. There is a further danger of the prisoner turning to crime, “as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal”²² (also see Donald Clemmer’s ‘The Prison Community’ published in 1940²³). Incarceration has further deleterious effects - where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.

7. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and

circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

18.09.2024
ps-I

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No