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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-4556-2023
Date of decision: 19.01.2024

Rohit Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Aruz Khan, Advocate for the petitioner.

Mr. J.S. Bhandari, AAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner for grant of regular bail in case having FIR No.307 dated 04.07.2022 under Sections 21 & 22 of NDPS Act, 1985 registered at Police Station Sohana, District SAS Nagar.
2. The case of the prosecution in nutshell is that on 04.07.2022, the petitioner was apprehended by the police and 40 grams of powder containing tramadol hydrochloride, 12 injections of Avil and 12 injections of Bupine 2 ml each having Buprenorphine salt in it, were recovered from the petitioner.
3. The counsel for the petitioner submits that the petitioner has been falsely implicated in the present case; that 40 grams of tramadol hydrochloride comes under non commercial quantity while injections of Avil are not covered under NDPS Act and 12 injections of Bupine comes

just marginally above commercial quantity. It is further submitted that petitioner who is having no criminal history under NDPS Act is incarcerated for the last more than 1 year and 6 months and it will take considerable time for the trial to conclude. So prayer is made that the petitioner be released on bail.

4. The present petition is resisted by the State counsel, who on instructions from ASI Bhag Singh submits that the recovery effected from the petitioner is covered under commercial quantity and embargo provided in Section 37 is applicable to the case of the petitioner. However, the State counsel has not disputed the fact that the petitioner is in custody for the last more than 1 year and 6 months and is not facing any other criminal case under NDPS Act and that till date the prosecution has failed to examine any witness during the trial.

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

6. 40 grams of powder of tramadol hydrochloride stated to be recovered from the petitioner falls under non commercial quantity while 12 injections of Avil are not covered under NDPS Act. 12 injections of Bupine 2 ml each were found to be containing 24 mg of Buprenorphine and its commercial quantity starts from 20 mg and thus, the recovery of 12 injections of Bupine falls under commercial quantity. Admittedly, the petitioner is in custody for the last more than 1 year and 6 months and the trial is not progressing ahead as till date, no prosecution witness is examined. In the given circumstances, the delay in trial infracts the petitioners fundamental right to a speedy trial and amounts to dilution of the

rigors of Section 37 of NDPS Act. Thus, this Court is of the view that the petitioner deserves to be released on regular bail as no purpose is going to be served by keeping the petitioner in custody for any longer period.

7. In light of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

19.01.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

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