

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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CRM-M-4524-2024

Jaspreet Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

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Reserved On: 18.04.2024  
Pronounced On: 19.04.2024

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CORAM: - HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued By: Ms. Gurpal Singh Sandhu, Advocate  
for the petitioner.

Mr. Baljinder Singh, DAG, Punjab.

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DEEPAK GUPTA, J.

The petitioner is seeking regular bail by way of this petition filed under Section 439 Cr.P.C in case FIR No.43 dated 18.03.2022 registered under Section 22(C) of NDPS Act, 1985 registered at Police Station Sadar, Sri Muktsar Sahib, District Sri Muktsar Sahib.

2. This is the second petition. The earlier petition bearing No. CRM-M-51137-2022 was dismissed as withdrawn vide order dated 03.07.2023 (copy Annexure P-3).

3. Status report filed. As per the prosecution allegations, on 18.03.2022 a police party during patrolling, apprehended petitioner Jaspreet Singh and co-accused Rajwinder Singh @ Sheru, riding on the motorcycle. Petitioner was driving the same. It was alleged that petitioner and co-accused threw a transparent envelope kept in between both of them. The strips of tablets scattered on the ground were collected and were found to be 11000 tablets of Lomotil. The same were taken into possession after making statutory

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compliances. On analysis, the salt of the intoxicating tablets was found to be Diphenoxylate Hydrochloride with its weight as 698 grams.

4. Learned counsel for the petitioner contends that petitioner has been falsely implicated; that no recovery was effected from the conscious possession of the petitioner; that it is unbelievable that petitioner will carry intoxicating tablets in a transparent polythene openly on a motorcycle as is alleged; and that compliance of Section 50 of the NDPS Act was not made, as only the joint consent memo was prepared, which is against law. Learned counsel further contends that petitioner is in custody for the last more than 02 years and is not involved in any other case; and that trial may take time to conclude and so, he be allowed bail.

5. Learned State counsel has opposed the bail petition by pointing out towards the huge quantity of contraband as recovered from the possession of the petitioner and co-accused, which is almost 14 times the threshold, from which the commercial category (50 gm.) starts for Diphenoxylate Hydrochloride. Learned State counsel submits that bar of Section 37 of the Act is clearly applicable in this case and so, petitioner does not deserve to be given the concession of bail.

6. Heard.

7. As per the custody certificate, petitioner is in custody for the last 02 years and 26 days. It is further revealed that petitioner is not involved in any other criminal case and thus, is a first time offender.

8. Apart from above, learned State counsel also informs that out of 31 witnesses cited by the prosecution, only 01 witness has been examined so far.

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9. Learned counsel for the petitioner has also placed on record copies of the various zimni orders as passed by the Trial Court in order to contend that though the charges were framed on 17.11.2022 but only one witness has been examined till date, despite availing numerous opportunities by the prosecution to produce its witnesses.

10. It is clear from the aforesaid facts and circumstances that trial is likely to take long time to conclude, having regard to the pace, at which the prosecution is leading its evidence and considering the long list of witnesses. It will also a matter of trial, as to whether the contraband was recovered from the conscious possession of the petitioner, as it is alleged that petitioner and the co-accused had thrown the transparent envelope kept in between them on the motorcycle.

11. Having regard to all the above facts and circumstances, but without commenting anything further on the merits of the case, particularly the long incarceration of the petitioner in custody, the rigors of Section 37 of the NDPS Act is required to be balanced with the salutary provision of Article 21 of the Constitution of India, which provides for right to a speedy trial.

12. As such, this petition is allowed. Petitioner is admitted to regular bail on his furnishing bail bonds/surety bonds to the satisfaction of the Learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

( DEEPAK GUPTA )  
JUDGE

April 19, 2024

Neetika Tuteja

|                           |        |
|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |