

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13315-2022 (O&M)
DECIDED ON: 31.01.2024

AJAY

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Garima Sharma, Advocate
for the petitioner.

Mr. Gurbir Singh Dhillon, AAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked for the third time under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.597, dated 15.11.2019 (Annexure P-1), under Sections 21(C), 22, 22(C) of the NDPS Act, 1985, registered at Police Station Ambala Cantt, District Ambala.
2. In pursuance of the order dated 12.12.2023, the trial has not yet commenced and out of total 19 prosecution witnesses, none has been examined till date despite an undertaking given before this Court by S.P., Ambala that all the necessary steps shall be taken to expedite the petitioner's trial, as has been informed to this Court by learned State counsel. However, a candid submission has been made that the co-accused of the petitioner was arrested later on, against whom the charges have not yet framed by the trial Court, therefore, the evidence could not be recorded and on that account, the trial is being delayed.
3. Perusal of the custody certificate depicts that the present petitioner has already suffered incarceration for a period of 02 years 07 months and

22 days against whom investigation stood completed and charges have been framed on 29.02.2020, which shows that for no fault of petitioner, he is forced to stay behind the bars with uncertainty to the commencement of trial proceedings, which are likely to take long time in the present scenario.

4. On merits, it has been pointed out by the learned counsel for the petitioner that though the petitioner is a drug addict and become victim of drug peddling but was not involved in the offence of drug peddling at all. It is on account of being a drug addict, he has been nominated as an accused in the instant case despite the fact that no recovery whatsoever has been effected from him as the recovery, alleged to have been recovered, was fastened upon him much later to his arrest, which is in the form of 1390 capsules of Pervorin Spas 100 MG (Tramadol Hydrochloride 100 MG : 5.7 gm per capsule : 792.3 gms), 448 capsules of Spasmo-Proxyvon Plus (Tramadol Hydrochloride 50 MG: 4.5 gm per capsule : 252 gms), 180 tablets of Alprasafe-05MG (Alprazolam 0.5 MG : 1.1 gm : 19.8 gms).

5. On the other hand, learned State counsel submits that the petitioner was arrested while consuming the drugs but could not justify the involvement of the petitioner in drug peddling in the absence of any other incriminating material at this stage and admits the fact that despite framing of charges against the petitioner on 29.02.2020, no witness has been examined so far.

6. Looking into the totality of facts and circumstances and also the fact that the pendency of framing of charge against the petitioner cannot be taken as a ground for denial of regular bail to the petitioner, against whom investigation is complete and charges were framed on 29.02.2020 and has suffered incarceration for a period of 02 years, 07 months and 22 days and the conclusion of trial

will taken a long time, therefore, no useful purpose would be served by keeping the petitioner behind the bars.

7. In view of the aforesaid observations made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

8. In the afore-said terms, the present petition is hereby allowed.

9. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

31.01.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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