

2024.PHHC.093450



2024.PHHC.093453



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

Date of Decision: July 24, 2024

1. CRM-M-15564-2024

Sandeep Kumar ...Petitioner

Versus

State of Haryana ...Respondent

2. CRM-M-8140-2024

Major Singh @ Mejar Singh ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. L.S. Sekhon, Advocate for the petitioner
in CRM-M-15564-2024.

Mr. Satvir Singh, Advocate for the petitioner
in CRM-M-8140-2024.

Mr. Rajbir Singh, DAG, Haryana.

DEEPAK GUPTA, J.(Oral)

The two petitioners have filed the aforesaid two petitions under Section 439 Cr.P.C. seeking regular bail in case FIR No.41 dated 13.02.2022, under Sections 22-C, 27-A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act'), registered at Police Station Jakhal, District Fatehabad.

2. Both the petitioners are praying for bail for second time, as their earlier petitions are stated to have been dismissed as withdrawn.

- 2 -

3. As per the prosecution allegations, the two petitioners were apprehended by the police party on 13.02.2022, while driving a motor-cycle. 999 strips having 10 tablets each of tramadol hydrochloride were recovered from them. The total weight of these strips is stated to be 2.900 Kgs.

4. Learned counsel for both the petitioners contend that petitioners have been falsely implicated. By drawing attention towards the FSL report attached with the status report, it is contended that the average weight of each of the tablet was 0.196 grams and in this way, the total weight of 9990 tablets works out to be 1.96 Kg. approximately, which is almost 08 times than the threshold from which the commercial category of 250 grams starts. Learned counsel also point out that the petitioners are in custody for the last more than 02 years and 05 months; and that only 01 witness has been partly examined out of 28 witnesses cited by the prosecution.

5. Learned State counsel has strongly opposed the bail petition by pointing out the huge quantity of contraband recovered from the petitioners, which is almost 08 times more than the threshold of the commercial category. Learned State counsel submits that in these circumstances, rigors of Section 37 of the NDPS Act are applicable.

6. No doubt, recovery of contraband allegedly recovered from the petitioners is quite huge being almost 08 times more than the threshold of the commercial category, but at the same time this Court notices that both the petitioners are in custody for the last 02 years, 05 months and 07 days. It is further noticed that petitioner – Sandeep Kumar has no other criminal case pending against him. As far as petitioner Major Singh is concerned, although

- 3 -

he is shown to be involved in two other cases, as per the custody certificate, but learned counsel for the petitioner submits that he has been acquitted in both the cases. This fact is not disputed by learned State counsel. Thus, as of now apart from present case, no other case is pending against petitioner – Major Singh.

7. Not only above, learned State counsel informs that out of 28 witnesses cited by the prosecution, only 01 has been examined so far and thus, the trial is likely to take long time to conclude.

8. In the aforesaid facts and circumstances, when the trial is likely to take long time to conclude, so having regard to the long incarceration of the petitioners, the rigors of Section 37 of the NPDS Act are required to be balanced with Article 21 of the Constitution of the India, of which the speedy trial is a facet.

Having regard to all the aforesaid facts, but without commenting anything on the merits of the case, both the petitioners are admitted to bail. They are ordered to be released on bail on their furnishing requisite bail bonds and surety bonds to the satisfaction of Trial Court/Duty Magistrate concerned, on usual terms and conditions.

Allowed.

Photocopy of this order be placed on the connected case file.

July 24, 2024
sarita

(DEEPAK GUPTA)
JUDGE

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