



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-16923-2024
Date of decision:-01.10.2024

Judge @ Jazz

... Petitioner

Versus

State of Haryana

.. Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.Dinesh Arora, Advocate
for the petitioner.

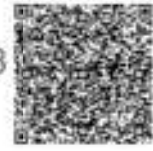
Mr.Satish Singla, AAG, Haryana.

SUVIR SEHGAL, J. (ORAL)

1. This third petition has been filed under Section 439 Cr.P.C.
seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Section
331	30.07.2020	Rania, District Sirsa	22 (c) of Narcotic Drugs and Psychotropic Substances Act, 1985

2. Version of the prosecution is that FIR, Annexure P1, has been registered when during routine patrolling, a middle aged person was found to be moving in suspicious circumstances and on spotting the police, he tried

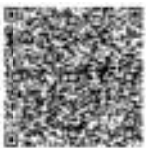


to flee. He was overpowered and recovery of 560 Capsules Parvorin Spas (Ridley) Tramadol Hydrochloride Batch No.PAR-2013 was effected. He identified himself as Judge @ Jazz (present petitioner).

3. Counsel for the petitioner submits that the petitioner, who enjoys a clean past, has been falsely implicated. He asserts that mandatory provisions of Sections 42 and 50 of the NDPS Act have been violated during the alleged search and seizure. Counsel has also highlighted the various irregularities during the investigation process. He submits that by order dated 18.01.2021, Annexure P9, petitioner was released on interim bail as the FSL report was awaited and immediately upon the filing of the report, petitioner surrendered before the Trial Court. He submits that as charge was framed on 22.12.2022 and the trial is at the very initial stage, petitioner deserves to be released on bail.

4. *Per contra*, State counsel upon instructions from SHO Dinas Kumar has opposed the petition. He urges that as the contraband recovered from the petitioner was found to be weighing 332.98 grams and falls within the ambit of commercial quantity as per the notification issued under the NDPS Act, rigor of Section 37 of the Act will apply. He has filed custody certificate dated 30.09.2024, which is taken on record and could not dispute that the petitioner is not involved in any other criminal case. On a specific question, he has apprised the Court that out of fifteen prosecution witnesses, one has been examined.

5. I have heard counsel for the parties and considered their respective submissions.



6. Petitioner has been in custody for the last twenty six months and the prosecution has failed to examine the material witnesses despite the fact that charge was framed more than one and a half years back. An accused is deemed to be innocent until his guilt is established on the basis of the evidence adduced by the prosecution. In Mohd. Muslim alias Hussain Versus State (NCT of Delhi) 2023 SCC On Line SC 352, Supreme Court has held that grant of bail on account of undue delay in trial cannot be said to be fettered by Section 37 of the NDPS Act. Noticing the length of detention, clean antecedents of the petitioner and the nascent stage of the trial, this Court is inclined the accept the prayer made in the petition.

7. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.

8. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

01.10.2024
Brij

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No