

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARHCRM-M-20171 of 2022(O&M)
Date of Decision: 06.02.2024

Pawan Kumar @ Gora

...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Dr. Rao P.S. Girwar, Advocate and
Mr. Sandeep Kumar Bansal, Advocate
For the petitioner.

Mr. J.S. Guru, AAG Punjab.

KARAMJIT SINGH, J.CRM-16004 of 2023

Application is allowed, as prayed for.

CRM-M-20171 of 2022

1. The present petition has been filed by the petitioner seeking grant of regular bail in criminal case having FIR No. 225 dated 25.10.2021, registered under Sections 22 and 25 of Narcotic Drugs and Psychotropic Substances Act (for short the NDPS Act) at Police Station City Jagraon, District Ludhiana.

2. The allegations in nutshell are that on 25.10.2021 petitioner was travelling on a pillion seat of a motor cycle driven by co-accused Jaswinder Singh and they were apprehended by the police and 1000 loose intoxicants tablets, 250 strips of 10 tablets each of Tramadol HCL having batch number and another 150 strips each having 10 tablets of Tramwel SR 100 having batch number were recovered from an envelope which was in conscious possession of the petitioner.

3. The counsel for the petitioner, *inter alia*, submits that the petitioner has been falsely implicated in the present case and is in custody for the last more than 02 years and 03 months and is not involved in any other case under NDPS Act and that the trial is not progressing ahead as till date only four witnesses are examined on behalf of the prosecution. The counsel for the petitioner while placing reliance upon **Satender Kumar Antil Vs. Central Bureau of Investigation, 2022(10) SCC 51**, submits that when there is a long incarceration, which is not attributable to the accused and the delay has been caused by the prosecution, then right of the accused under Article 21 of the Constitution was effected.

4. Reply by way of affidavit of Jasjyot Singh, DSP Jagraon, District Ludhiana Rural, filed on behalf of the State is taken on record along with copy of report of FSL (Annexure R-1).

5. On the other hand, the State counsel submits that commercial quantity of contraband was recovered from the possession of the petitioner and his co-accused Jaswinder Singh by the police. That embargo provided under Section 37 of the Act is applicable in the instant case. It is further submitted that petitioner is having criminal history as is involved in one another case under Excise Act and that the trial is going on. However, the State counsel has not disputed the fact that till date prosecution is able to examine only four witnesses out of total twelve witnesses on behalf of the prosecution and that the petitioner is in custody for the last more than 02 years and 03 months.

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

7. No doubt the present case is relating to recovery of commercial quantity of medical intoxicants from petitioner and co-accused Jaswinder Singh but at the same time the petitioner has already faced incarceration for period of 02 years and 03 months and the trial is going ahead at a snail's pace and till date only four witnesses are examined on behalf of prosecution out of total twelve witnesses. It will take considerable time for the trial to terminate. The petitioner is not responsible for the aforesaid delay in disposal of the trial. It is settled position of law that whatever be the nature of the offence, a prolonged trial against an accused under custody, would be violative of Article 21 of the Constitution and such a long incarceration also dilutes the rigors of Section 37 of the Act. In the given circumstances, no purpose is going to be served by detaining the petitioner in custody for any longer period.

8. 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 bail subject to his furnishing of bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

06.02.2024

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No