



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

CRM-M-22717-2024

Date of Decision: July 09, 2024

Rajwinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Gurpal Singh Sandhu, Advocate for the petitioner.

Mr. Eklavya Darsi, DAG, Punjab.

DEEPAK GUPTA, J.(Oral)

By way of present petition under Section 439 Cr.P.C., petitioner prays for his release on regular bail in a case arising out of FIR No.43 dated 18.03.2022, under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act'), registered at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib.

2. Status report by way of affidavit of Shri Satnam Singh, Deputy Superintendent of Police, Sub-Division Sri Muktsar Sahib, District Sri Muktsar Sahib alongwith custody certificate has been filed on behalf of respondent-State.

3. This is the third petition filed for the purpose. The earlier two petitions bearing Nos.21818-2023 and CRM-M-49279 of 2023 were dismissed as withdrawn vide orders dated 23.08.2023 and 15.02.2024 respectively.

4. Learned counsel for the petitioner contends that after dismissal as withdrawn of the earlier two petitions, a similarly placed co-accused,

namely, Jaspreet Singh, has already been allowed bail by this Court, vide order dated 19.04.2024 passed in CRM-M-4524-2024 (Copy Annexure P-4).

5. As per the prosecution allegations, on 18.03.2022, a police party during patrolling apprehended petitioner – Rajwinder Singh and co-accused – Jaspreet Singh, riding on the motorcycle. Co-accused 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 compliances. On analysis, the salt of the intoxicating tablets was found to be Diphenoxylate Hydrochloride with its weight as 698 grams.

6. Learned counsel for the petitioner contends that the 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 the law. Learned counsel contends that the petitioner is in custody for the last more than 02 years and 03 months; and that trial may take time to conclude and so, he be allowed bail.

7. 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 grams) starts from 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 benefit of bail.

8. Heard.

9. As per the custody certificate, petitioner is in custody for the last 02 years, 03 months and 16 days, though he is involved in one more case, but that does not pertain to NDPS Act.

10. It is informed by learned State counsel that out of 33 witnesses cited by the prosecution, only 03 have been examined so far. Thus, trial is likely to take long time to conclude.

11. In the aforesaid circumstances, the rigor of Section 37 of the NDPS Act is required to be balanced with Article 21 of the Constitution of India providing for the fundamental right of the life and liberty, of which the right of speedy trial forms part.

12. Besides above, similarly placed co-accused Jaspreet Singh, has already been allowed bail by this Court, vide order dated 19.04.2024 passed in CRM-M-4524-2024 (Copy Annexure P-4).

13. Considering all the aforesaid facts, particularly on the basis of parity, but without commenting anything on the merits of the case, petitioner is admitted to bail. He is ordered to be released on bail on his furnishing requisite bail bonds and surety bonds to the satisfaction of learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

Allowed.

July 09, 2024

sarita

(DEEPAK GUPTA)
JUDGE

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