



IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

201

CRM-M-23731-2024 (O&M)

Date of decision: 17.05.2024

Sunny

....Petitioner

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY**

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Present : Mr. Bharat Julka and Ms. Sunita Devi, Advocates for the petitioner

Mr. Manipal Singh Atwal, DAG Punjab

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**AMAN CHAUDHARY. J. (ORAL)**

1. Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.038, dated 28.03.2023, registered under Sections 21, 61 and 85 of NDPS Act, 1985, at Police Station Division No.1, Jalandhar, District Jalandhar, Punjab.
2. Learned counsel contends that the petitioner is in custody for 1 year and about 2 months. He is stated to be sitting on the rear side of the car, the contraband having been recovered from the left side of the gear box. He alleges false implication. No independent witness was joined at the time of recovery. The co-driver, Sajan has been granted bail by this Court vide order dated 29.04.2024, Annexure P-4, after being in custody for 1 year and 27 days, against whom, one more case under the NDPS Act was registered. Charges have been framed on 13.10.2023, however, only 1 out of 14 prosecution witnesses has been examined. The petitioner is not involved in any other case.



3. Custody certificate dated 16.05.2024, filed by learned State counsel is taken on record, as per which, the petitioner is behind bars for 1 year, 1 month and 14 days.

4. Learned State counsel opposes the bail on the ground that commercial quantity of contraband was recovered from the petitioner, who was apprehended at the spot. He is unable to controvert the submissions made regarding the stage of the case, co-accused having been granted bail and petitioner not being involved in any other case.

5. Heard.

6. Hon'ble the Supreme Court in the case of **Dheeraj Kumar Shukla vs. The State of Uttar Pradesh**, SLP (Criminal) No.6690/2022 decided on 25.01.2023 observed that in case of long custody period, involving quantity recovered to be of commercial nature, where the trial is yet to commence, though charges had been framed, the condition of Section 37 of NDPS Act can be dispensed with. In the case of **Bhupender Singh vs. Narcotic Control Bureau** (2022) 2 RCR (Crl.) 706, the Division Bench of this Court observed with regard to achieving balance between right to speedy trial guaranteed under Article 21 of the Constitution of India and rigors of Section 37 of NDPS Act. In the case of **Munasi Masih vs. State of Punjab**, CRM-M-31504-2022, decided on 06.02.2023, this Court granted bail to a first offender from whom commercial quantity of contraband had been recovered and only 2 out of 13 PWs have been examined, by observing that in view of delayed trial, the rigors of Section 37 of NDPS Act can be diluted to an extent and the petitioner can be granted bail, keeping in mind the right to a speedy trial as envisaged Article 21 of the Constitution of India.



7. Keeping in view the facts and circumstances of the case, in particular that the petitioner is in custody for last 1 year, 1 month and 14 days; not involved in any other case; co-accused has been granted bail; charges were framed on 13.10.2023 and out of a total of 12 prosecution witnesses, 1 has been examined so far; the trial is likely to take a considerable time, thus his further incarceration would be violative of his right enshrined under Article 21 of the Constitution of India and the rigors of Section 37 of NDPS Act can be diluted bearing in mind the right to a speedy trial, thus, the present petition for grant of regular bail deserves to be allowed.

8. As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to his not being required in any other case. The petitioner shall abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
- (v) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- (vi) The petitioner shall not in any manner misuse her liberty.
- (vii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done



only with prior intimation to the learned Trial Court, stating the reason for the same.

- (viii) The petitioner shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

9. It is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

10. In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)  
JUDGE

17.05.2024  
M.Kamra

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