



CRM-M-25693 of 2024

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212 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25693 of 2024
Date of decision : August 20, 2024

Shehbaj

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK GUPTA

Present : Mr. L. S. Sekhon, Advocate for the petitioner.

Mr. Eklavya Darsi, DAG., Punjab.

DEEPAK GUPTA, J (Oral)

1. Petitioner is praying for regular bail in case FIR No. 105, dated 26.04.2022, registered at Police Station Amargarh, District Malerkotla, under Sections 22 and 29 of NDPS Act, 1985.
2. This is the second petition for regular bail. The earlier petition bearing CRM-M-31140-2022 was dismissed as withdrawn on 06.02.2024.
3. As per the allegations, 1000 intoxicant tablets containing salt of carisoprodol with total weight of 477 grams; and 100 bottles of 100 ml. each i.e. total 10 litres of codeine Phosphate were recovered from the possession of the petitioner on 26.04.2022.
4. It has been submitted by learned counsel for the petitioner on the last date of hearing that carisoprodol salt does not fall within the scope of Narcotic or psychotropic substance.



5. Learned counsel for the petitioner has referred to the judgment passed in **CRM-M-168-2016 Amrit Pal Singh Vs. State of Punjab** decided on 01.02.2016 and **CRM-M-1242-2014 Jagjit Singh Vs. State of Punjab** decided on 29.04.2014 wherein it was held by a co-ordinate Bench of this Court that carisoprodol salt is not a psychotropic substance under the NDPS Act.

6. Learned State counsel could not dispute the aforesaid fact.

7. As far as the recovery of 10 litres of codeine Phosphate is concerned, although it is conceded by learned counsel for the petitioner that this is 10 times of the threshold from which the commercial category starts for codeine phosphate but contention of learned counsel for the petitioner is that petitioner is in custody for the last more than 2 years and 3 months and that trial is likely to take long time to conclude. It is also pointed out that petitioner is the first time offender and no other case is pending against him.

8. Learned State counsel, on the other hand has opposed the bail application on the ground that the recovered quantity of contraband falls in the commercial quantity and that out of 17 witnesses, 6 have already been examined, 6 have been given up and only 5 were left to be examined.

9. As per custody certificate placed on record by learned State counsel, petitioner is in custody for 2 years, 3 months and 19 days. He has no other case pending against him.

10. In the aforesaid facts and circumstances, when the trial is likely to take long time to conclude as five witnesses are still left to be examined, so having regard to the long incarceration of the petitioner in custody, 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.



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11. Considering the aforesaid factual position, but without commenting anything upon the merits of the case, the petitioner is admitted to regular bail and he is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned Trial Court concerned, on usual terms and conditions.
12. Allowed.

(DEEPAK GUPTA)
JUDGE

August 20, 2024
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Whether speaking/reasoned	Yes
Whether Reportable :	No