

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-40944 of 2021(O&M)
Date of Decision: 27.02.2024

Harjot Singh @ Kala
...Petitioner
Versus
State of Punjab
...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Ankit Grewal, Advocate
For the petitioner.

Mr. J.S. Dhaliwal, AAG Punjab.

KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioner seeking grant of regular bail in criminal case having FIR No. 28 dated 04.03.2021, registered under Sections 22, 25 and 29 of Narcotic Drugs and Psychotropic Substances Act (for brevity, NDPS Act) at Police Station Boha, District Mansa.
2. The allegations in nutshell are that on 04.03.2021 petitioner was apprehended and police recovered 160 strips each containing 10 tablets of Radol-100 Tramadol Hydrochloride 100-SR from him.
3. The counsel for the petitioner submits that the petitioner was falsely implicated in the present case and that the petitioner is in custody for the last more than 02 years and 09 months and is having no criminal history under the NDPS Act and the trial is not progressing ahead and in the given circumstances the petitioner is entitled to get benefit of regular bail. In support of his contentions, the counsel for the petitioner has placed reliance on decision of Hon'ble Supreme Court in **Hasanujjaman & ors. State of**

West Bengal SLP (Crl.) No. 3221 of 2023, decided on 04.05.2023, wherein in a case of recovery of commercial quantity of contraband, the accused was granted bail on account of the fact that he was in custody for more than 01 year and 04 months.

4. The present petition is resisted by the State counsel who submits that in the present case commercial quantity of medical intoxicants were recovered from the petitioner. It is further submitted that rigors of Section 37 of NDPS Act are applicable in the instant case. However, the State counsel has not disputed the fact that the petitioner is in custody for the last more than 02 years and 09 months and is having no criminal antecedents under NDPS Act and further till date prosecution has examined 05 witnesses out of total 14 witnesses.

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

6. As per prosecution version the petitioner was found to be in possession of 160 strips each containing 10 tablets of Radol-100 Tramadol Hydrochloride 100-SR and was apprehended at the spot by the police officials. The said medical intoxicants come under commercial quantity as per provisions of NDPS Act.

7. As per the custody certificate furnished by the State counsel, the petitioner is in custody for the last more than 02 year and 09 months and is having no criminal history under NDPS Act. Admittedly, it will take time for the trial to terminate as till date prosecution is able to examine only 05 witnesses out of total 14 witnesses. Thus, there is a delay in trial and the petitioner is not responsible for the same. In the given circumstances, the

effect of Section 37 of NDPS Act will be diluted. No fruitful purpose is going to be served by keeping 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.

27.02.2024
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(KARAMJIT SINGH)
JUDGE

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