

2024-PHHC-102803



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103+223

CRM M- 34581 of 2024 (O&M)
Date of Decision: 07.08.2024

Kuldeep Singh @ Mintu ...Petitioner
Versus
State of Punjab ... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Manish Kumar Singla, Advocate, for the petitioner.
Mr. M.S. Bajwa, DAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

CRM 31371 of 2024

1. Allowed as prayed for.
2. Zimini orders (Annexures P-1 to P-20) are taken on record.

CRM M- 34581 of 2024

1. The petitioner has filed the present petition under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, with a prayer to grant regular bail to him in a case arising out of FIR No. 215 dated 26.09.2021 registered under Sections 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, (for short, '**the NDPS Act**') at Police Station City Kotkapura, District Faridkot.
2. The FIR in the present case was registered on the basis of the statement made by SI Pritam Singh. As per him, at about 05.30

p.m. on 26.09.2021, he and other police officials were present at Jaiton Road, two Hindu gentlemen were seen coming on a motorcycle without registration number and on seeing the police party, they tried to flee from the spot. However, they were chased and were apprehended by the police. They disclosed their names Pawan Kumar son of Tarsem Lal and Kuldeep Singh @ Mintu (petitioner). After following the due process of law, their search was conducted and 1850 Tramadol Hydrochloride Tablets were recovered from them.

3. Learned counsel for the petitioner contends that in the present case, the petitioner was arrested on 26..09.2021 and was granted the concession of *interim* bail on 02.12.2021 awaiting the report of the FSL. However, there was some communication gap between the petitioner and his counsel and he was declared to be a proclaimed offender on 19.05.2023. However, the petitioner was arrested by the police and was produced in the Court on 01.06.2023 and is in custody since then. Learned counsel further submits that the petitioner is in custody for the last more than 01 year and 04 months and final report under Section 173 Cr.P.C. has already been presented against the present petitioner. He further contends that the trial in the present case is unreasonably delayed by the prosecution and further custody of the petitioner will not serve any purpose. He submits that the following three cases were also registered against the petitioner and in two cases, the petitioner has already been convicted:-

Sr.	Details	Comments
No.		
1.	<i>FIR No. 49 dated 19.04.2017 under Sections 15/61/85 of NDPS Act, Police Station Jaitu for having 10 KG of poppy husk alongwith Avtar Singh non commercial quantity.</i>	<i>Convicted vide judgment dated 01.03.2019 by Judge, Special Court Faridkot, already under gone and fine of Rs. 1500/-</i>
2.	<i>FIR No. 44 dated 30.03.2019 under Sections 22, 29 of NDPS Act, P.S. Jaitu, for having 600 tablets of Tramadol alongwith Nishan Singh non commercial quantity.</i>	<i>Convicted vide judgment dated 03.08.2023 by Judge Special Court Faridkot, already undergone and fine of Rs.3000/-</i>
3.	<i>FIR no. 20 dated 19.02.2020 under Sections 22 and 29 of the NDPS Act, Police Station Jaitu. Roped lateron on the basis of the disclosure statement of co-accused Gurcharan Singh @ Channi.</i>	<i>On bail</i>

He further contends that the petitioner had also applied for regular bail, but the same was withdrawn on 07.11.2023. Even thereafter, the trial has not progressed much and the petitioner deserves to be released on bail.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by the petitioner on the ground that

the petitioner was granted the concession of *interim* bail by the trial Court and after the receipt of the FSL report, he did not surrender and had misused the *interim* bail granted to him in the present case. Apart from that, the petitioner is a habitual offender and he has also been convicted in two cases under the provisions of the NDPS Act.

6. I have heard learned counsel for the parties and perused the record.

7. The petitioner had earlier filed a petition for grant of regular bail, however, the same was withdrawn from this Court on 07.11.2023. Now, only after few months, the present bail petition has been filed before this court, without change of any circumstances. In fact, nowadays, even the trial Courts in the State of Punjab are overburdened with criminal trials under the provisions of the NDPS Act and due this, sometimes, the statements of various prosecution witnesses are not recorded in a fixed time period. However, the same is not a ground to grant the concession of bail to the petitioner, from whom, the commercial quantity of tramadol hydrochloride has been recovered. In fact, 1850 tables of Tramadol Hydrochloride were recovered from the petitioner and his co-accused and the total quantity of tramadol in the present case comes out to be 729-418 grams, which falls under the commercial quantity. Thus, the bar contained in Section 37 of the NDPS Act would be applicable in the present case and the present petition deserves to be dismissed. Further, the petitioner is a habitual offender and is already convicted

in two other cases under the NDPS Act and is facing the trial in one more case under the NDPS Act and the said facts have been disclosed by him in para 8 of the petition.

8. Thus, finding no merits, the present petition is ordered to be dismissed.

07.08.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No