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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-36726-2023

Date of decision: 29.02.2024

Harpreet Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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

Mr. Baljinder Singh, DAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail in case having FIR No.32 dated 01.03.2020 under Sections 22, 29 of NDPS Act, registered at Police Station Kharar, District SAS Nagar (Mohali).
2. As per prosecution version, 475 strips each having 60 tablets of Lomotil were recovered from dicky of the car driven by the petitioner on 01.03.2020 and the petitioner was arrested at the spot by the police.
3. The counsel for the petitioner submits that the petitioner was falsely implicated in the present case and is in custody for the last more than 4 years and is having no criminal history. That the trial is not progressing ahead. The counsel for the petitioner further submits that in the given

circumstances the petitioner is entitled to concession of regular bail. In support of his contentions, the counsel for the petitioner has placed reliance upon SLP (Crl.) No. 6690 of 2022 titled as Dheeraj Kumar Shukla Vs. State of Uttar Pradesh decided on 25.01.2023 wherein, in a case relating to recovery of commercial quantity of contraband (ganja), the accused was granted bail on account of the fact that he was in custody for more than two and a half years and was having no criminal antecedents.

4. The present petition is opposed by the State counsel who submits that in the instant case commercial quantity of contraband was recovered and as such stringent provisions of Section 37 of NDPS Act are applicable. The State counsel further submits that after completion of investigation, challan was presented and during trial, prosecution has examined 11 witnesses and 4 other witnesses are given up and the trial is progressing ahead. However, the State counsel has not disputed the fact that petitioner is in custody for last more than 4 years and is having no criminal history.

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

6. As per prosecution version, commercial quantity of medical intoxicants were recovered from possession of the petitioner on 01.03.2020. The petitioner is in custody for the last more than 4 years and is not involved in any other criminal case. As per the status report furnished by the trial Court, now 5 other witnesses remain to be examined on behalf of prosecution. It will take time for final disposal of the trial. Thus, it will take considerable time for trial to terminate. The petitioner is not responsible for

the aforesaid delay in disposal of the trial. It is settled position of law that whatever be the nature of offence, a prolonged trial against an accused under custody, would be violative of Article 21 of the Constitution of India and such a long incarceration also weaken the rigors of Section 37 of NDPS Act. In the given circumstances, no fruitful purpose is going to be served by detaining the petitioner in custody for any longer period.

7. In the light of the above, without expressing any opinion on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

29.02.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

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