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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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Date of Decision : 11.11.2024

KARANJEET SINGH@RAJU

.....Petitioner

VERSUS**STATE OF HARYANA**

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Pankaj Bali, Advocate,
for the petitioner.

Mr. Rajesh Gaur, Addl.A.G., Haryana

KULDEEP TIWARI, J.(Oral)

1. On the oral request of learned counsel for the petitioner Section 25 of the Narcotic Drugs and Psychotropic Substance Act, 1985, is added in the head note as well as in the prayer clause of the instant petition, as the same was left to be added at the time of drafting.
2. The Registry is directed to carry out necessary corrections accordingly.
3. Through the instant second petition, the petitioner craves for indulgence of this Court for his being enlarged on regular bail, in case FIR No.562 dated 30.12.2022, under Sections 21(c), 22(c) and 25 of the Narcotic Drugs and Psychotropic Substance Act, 1985 (Section 29 thereof added later on), registered at Police Station Taraori, District Karnal.



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4. The instant FIR has been registered on the basis of an information received from Incharge ANC Karnal. The relevant extract of the FIR reads as under:-

“Copy of the contents of the FIR is as under: To Manager Officer, Police Station, Tarawari, Jai Hind. Today myself SI along with SI Singhraj No.922, HC Rajiv Kumar No.1310, ESI Satish Kumar No.946 are present at Anti Narcotic Cell, Karnal. Right now, I, Rajesh Kumar, Incharge ANC Karnal informed that 'I received a call from SHO Highway, Karnal and they controlled two boys, and there is suspicion that they may have some illegal intoxicant substance which is prohibited as per NDPS Act' and they told to send the ANC Cell Team on the spot. After receiving this information, myself SI along with above co-officials went to the spot of occurrence in government vehicle No. Tavera No.HR45B6060 Marka Tavera which was driven by SPO Deva Singh 157/KNL and Notice under Section 42 NDPS Act was handed over to ESI Satish Kumar No.946 and to the Police Station. After informing this incident to my co-officials I reached at Delhi Chandigarh GT Road from Tarawari towards 3 kilometre to Nilokheri. On the GT Road myself met Manager Inspector Jitendra Singh number 89 HAP Highway along with government vehicle at HR45 AO 444 Tavera which was driving by SPO Rajendra Kumar number 32 along with other staff. He elaborated the whole incident to me and handed over two young boys along with two bag packs (pithu bag) and motorcycle number PB 18 R 7908 Marka SPL. One by one I asked their name and address, then the motorcycle driver revealed his name Karanjit Singh alias Raju son of Lakhwinder Singh son of Mahendra Singh village safipur police station Jandiala Guru district Amritsar Punjab and the other boy revealed his name Charanjit Singh son of Waryam Singh son of Beant Singh resident of village Kanegill police station Kila Lal Singh, District Gurdaspur Punjab. Notice under section 50 NDPS Act to both them has been given one by one and told that I have a suspicion that you have any prohibited material in your possession which is prohibited under NDPS Act' You have full rights that you may get yourself searched in the presence of any other Gazetted officer or Magistrate. I am giving you 10 minutes to think. Notice under section 50 NDPS Act were prepared separately and read over and got them understood, accused persons after hearing the contents of the notice and after understanding the contents of notices, accused Karanjit Singh and Charanjit Singh and witnesses appended their signatures on the notices. In the meanwhile 5-7 persons was stopped on the road and the incident was elaborated to them and also requested to join the investigation but everybody showed their incompetency and without revealing their name and address left the spot. After 10 minutes accused Karanjit Singh and Charanjit Singh above asked to answer with regard to notice under section 50 of NDPS Act and they after thinking replied that they wanted to be searched themselves through Gazetted officer and officer be called on a the spot. After getting their answer notice under section 50 NDPS Act was prepared separately in which the signatures of accused persons Karanjit Singh Charanjit Singh above was appended and witness is also appended their signatures. I checked the issued list on my mobile phone



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and contacted Naib Tehsildar Nilokhedi but he replied I am on medical leave'. Then I called from my mobile phone number 9729990747 to Shri Veer Singh DSP City Karnal at 6:04 PM and elaborated the facts of the incident and informed him to come on the spot and at about 6.50 pm Shri Veer Singh DSP in government vehicle number HR05 BC 633 Marka Bolero came on the spot after receiving the information. As Myself elaborated the whole incident and the above accused persons Karanjit Singh and Charanjit Singh along with their reply notice under section 50 NDPS Act were produced before DSP sir and he gave his introduction to accused persons Karanjit Singh and Charanjit Singh above and told that 'I am working in police force on the designation of deputy Superintendant of Police City Karnal, accused persons Karanjit Singh and Charanjit Singh above agreed to be searched in presence of DSP and DSP Sahab seen the reply of the notices and DSP Sir instructed myself to search the above accused persons in his presence as per the instructions of DSP I searched both the accused persons Karanjit Singh and Charanjit Singh above one by one as per rules. During the search, no intoxicant substance was found from the possession of Karanjit Singh, thereafter during the search of accused Charanjit Singh I checked his bag pack from my hands and after opening it there were three boxes found deep inside the clothes and in each box in English language written PROXYWELSPAS, one by one I opened each box and after checking in two boxes there were 30/30 stripes in each box and in one box there were 27 stripes, totaling 87 stripes were recovered, in each stripe there were eight capsules and in each strike in English language it was written paracetamol, dyclomine, hydrochloride Tramadol, hydrochloride capsules. The badge number of all the boxes is PCC JZ93 and there are total 696 capsules. When the above accused persons Karanjit Singh and Charanjit Singh asked about any license/permit /bill with regard to this these medicines then they did not give any satisfactory answer. That in respect of recovered medicines I contacted Shri Sandeep Hooda District Medicine Controller Officer Karnal on his mobile number 9017391105 and opinion was sought after sending the photograph of the recovered medicines on their WhatsApp, he replied that these medicines are prohibited under NDPS Act and they also said you may receive opinion about these medicines in written on any working day. Myself with the help of electronic Weighing Machine measured one capsule after opening one stripe and it was weighed 0.55 miligram, as the whole capsules are 696 in number then it weighed 382.8 gram. That capsule was again put into that stripe and red tape was fixed over it and parcels were made of all the three boxes and he same was stamped as SC/3 and the sample stamp same was prepared on a cloth. After the usage of the stamp the same was handed over to SI Singh Raj number 922 and DSP Sahab also put his seal stamp over the capsule parcel and Sample seal as VS/1/1 and after the usage of the stamp he put the same with him and capsule parcel and Sample seal was also attested and thereafter they recovered capsule parcel Tramadol, sample seal motorcycle bearing number above along with key bearing registration certificate which is owned by Waryam Singh son of Beant Singh Village Kinnegil District Gurdaspur which is valid up to 10th of November 2025 and registered from Batala Authority and taken into the Police Custody as a evidence through different written list and taken into the police custody, accused and Witnesses appended their signatures on the written list and the same was attested by DSP Sahab



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and memo of the recovery was prepared. That accused persons by keeping 696 Tramadol Intoxicant capsule without any permit or license and transporting the same committed offense under Section 21c, 22c, 25 NDPS Act and after writing there the same was handed over to EASI Satish Kumar number 946 and he was being sent to police station, after the registration of the case FIR it's number be obtained from the case file and its special report be sent to the services of senior officers. Another investigating officer be sent on the spot. Myself is involved on the spot for the investigation. Today GT Road Tarawari signed Subhash Chand SI Narcotic Cell, Karnal dated 30.12.2022 at 9.05 p.m. Mobile number 9466-436-199. Today at police station at this time myself SI Rohtash number 10760 is present at police station, SI Subhash Chand sent a tehrir against Karanjit Singh Alias Raju son of Lakhwinder Singh son of Mahender Singh Village Safipur police station Jandiala Guru District Amritsar Punjab and Charanjit Singh son of Waryam Singh son of Beant Singh Village Kanegill police station Kila Lal Singh District Gurdaspur, Punjab. That above accused person without license and permit carried 696 Tramadol capsules and transported that. After receiving this tehrir through EASI Satish Kumar number 946 Karnal at police station and case FIR number 562 dated 30th of December 2022 was registered under Section 21C, 22C, 25 of NDPS Act at Police Station. Copy of the police file along with the original tehrir is being sent to above spot through the incoming official and this special report of the case fir is being sent to the senior officers through email and for further proceedings in the investigation myself SI is heading towards the spot occurrence. Hand over to Moharrar.”

5. A perusal of the FIR reflects that the total recovery, as effected in the instant case, comes out to be 348.50 grams of 'Tramadol', which admittedly falls within the ambits of commercial quantity, as per the schedule attached to the NDPS Act. The commercial quantity as prescribed in schedule, is more than 250 grams.

6. The petitioner earlier approached this Court seeking the same relief by filing a petition bearing no. CRM-M-11760-2023, however, the same was dismissed as withdrawn vide order dated 22.12.2023 (Annexure P-3). However, the learned trial court concerned was directed to make efforts to expedite the conclusion of the trial.

7. Learned counsel for the petitioner, in asking for relief of regular bail, *inter alia* submits that though the petitioner is arrested

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alongwith co-accused, however, no recovery was effected from the present petitioner. The recovery, which is alleged to have been effected in the instant case, has in fact been effected from the co-accused.

8. He further submits that the petitioner is a man of clean antecedents, and has suffered incarceration of about 1 year and 10 months, as on today.

9. He also submits that after dismissal of the first bail application, that too about 11 months ago, the trial has not moved even an inch further. Therefore, the conclusion of the trial is likely to take a long time.

10. *Per contra*, the learned State counsel, has placed on record the custody certificate *qua* the petitioner, which is taken on record. A perusal of the custody certificate reveals that the petitioner has suffered incarceration of 01 year and 10 months and 05 days, as on today.

11. He, on instructions, imparted to him by ASI Gurpreet Singh, submits that out of the total 17 prosecution witnesses cited by the prosecution in the final report, only one witness has been partially examined till date.

12. This Court has heard the learned counsel for the parties concerned, and has gone through the entire case file, and refrains itself to make any observations on the first submission made by learned counsel for the petitioner, that no recovery is effected from the present petitioner, as the allegation of conscious possession is yet to be established by the prosecution at the relevant stage of the trial.

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13. So far as the other aspects, which require consideration are; the long incarceration of the petitioner; the antecedents; and the stage of the trial.

14. Admittedly, (i) as per the custody certificate, in the instant case the petitioner has suffered incarceration of 1 year 10 months and 05 days, as on today, and (ii) till date the prosecution is only able to partially examine one witness, that too the examination-in-chief, out of the total 17 prosecution witnesses cited in the final report, whereas charges were framed way back on 21.10.2023, (iii) therefore, conclusion of the trial will take a long time, and, (iv) the petitioner is having clean antecedents.

15. In view of the aforesaid extracted reasons, this Court is of the considered opinion that the instant petition is amenable for being allowed.

16. This view of this Court is fortified by the ratio of the judgment laid down in "**Rabi Prakash Versus The State of Odisha**", **Special Leave to Appeal (Criminal) No.4169 of 2023**, wherein the Supreme Court has discussed the effect of Section 37 of the NDPS Act in such like cases of long custody. The relevant portion of the aforesaid judgment contained in para No.4 is reproduced as under:-

"4. As regard to the twin conditions contained in Section 37 of the NDPS Act, learned counsel for the respondent - State has been duly heard. Thus, the 1st condition stands complied with. So far as the 2nd condition re: formation of opinion as to whether there are reasonable grounds to believe that the petitioner is not guilty, the same may not be formed at this stage when he has already spent more than three and a half years in custody. The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty



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must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act."

17. Considering the hereinabove made discussion, this Court deems it fit and appropriate to grant the concession of regular bail to the petitioner. Therefore, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**. The petitioner is ordered to be released on bail on furnishing of bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

18. However, anything observed here-in-above shall have no effect on the merits of the trial, and is only meant for deciding the present petition.

19. However, it is clarified that if in future, the petitioner is found indulging in commission of similar offences, as are involved herein, the respondent-State shall be at liberty to make an appropriate application seeking cancellation of regular bail, as granted by this Court.

20. All pending application(s), if any, also stand **disposed** of accordingly.

November 11, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No