

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No. 221

CRM-M-37725-2023
Date of Decision:22.04.2024

Amir Khan

...PETITIONER

VERSUS

State of Punjab

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. Matinder Brar, Advocate
for the petitioner.

Mr.Ramandeep Singh, Sr. D.A.G., Punjab

DEEPAK GUPTA, J.(ORAL)

1. By way of this petition filed under Section 439 Cr.P.C., prayer is made for grant of regular bail in case FIR No. 97 dated 04.05.2022, under Sections 21,22 and 27 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred as 'the NDPS Act'), registered at Police Station Muktsar, District Sri Muktsar Sahib.
2. As per allegations, secret information was received against the petitioner and other co-accused that they used to smuggle and consume drugs. The said information was received way back on 04.05.2022 and necessary FIR was registered. Later on, in a raid conducted on 04.03.2023 by the police party, petitioner was apprehended holding a transparent polythene envelope, in his right hand and on search of the same, 55 tablets of Restfill-ET, Etizolam & Escitalopiam were found from his possession.
3. The status report as filed by the respondent-State also reveals that on analysis through the FSL, average weight of each table was found to be 174.49 mg and thus total weight works out to be approximately 9.6 grams, which falls in the commercial category, as threshold for the

commercial starts from 2.5 grams.

4. Contention of learned counsel is that the petitioner is falsely implicated. Though the alleged secret information was received in the month of May 2022, but the petitioner has been arrested after 10 months on 4.3.2023. Further contention of learned counsel is that it is unbelievable that the petitioner will be carrying intoxicant tablets in a transparent polythene bag in such a manner that it could be seen by the police party. Learned counsel also submits that the trial is likely to take long time as only one witness has been examined so far.

5. Learned State counsel has opposed the bail petition by pointing out that the recovered contraband from the possession of the accused falls in commercial category. He has also placed on record the custody certificate, revealing that the petitioner is in custody for the last one year one month and 17 days. Though the petitioner is involved in five more cases, out of which, one pertains to NDPS Act but he is on bail in all the cases. Learned State counsel, on instructions, received from ASI Sukhwinder Singh, submits that out of 18 witnesses cited by the prosecution, one witness has been examined so far. Thus, trial is likely to take long time to conclude.

6. In the aforesaid circumstances, the rigor of Section 37 of the NDPS Act is required to be balanced with Article 21 of the Constitution of India providing for the fundamental right of the life and liberty, of which the right of speedy trial forms part.

7. Considering all the aforesaid facts and circumstances of the case, but without commenting anything on the merits of the case, the petitioner is admitted to bail. He is ordered to be released on bail on his

furnishing requisite bail bonds and surety bonds to the satisfaction of learned Trial Court/Duty Magistrate concerned on usual terms and conditions.

8. Allowed.

22.04.2024
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Whether speaking/reasoned
Whether reportable

(DEEPAK GUPTA)
JUDGE

Yes/No
Yes/No