

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-39238-2023

Date of Decision: 16.4.2024

Sudagar Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. J.K.Singla, Advocate
for the petitioner.

Mr. Ravinder Singh, AAG, Punjab.

KARAMJIT SINGH, J.

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.171 dated 23.8.2022 registered for the offences punishable under Sections 22(C) of NDPS Act at Police Station City Budhlada, District Mansa.

2. The allegations in nutshell are that on 23.8.2022, the police apprehended petitioner-Sudagar Singh and co-accused Bhola Singh and effected recovery of 900 tablets labelled as Alprasafe 0.5 from the petitioner and 800 tablets labelled as Alprasafe 0.5 from co-accused Bhola Singh.

3. Counsel for the petitioner submits that the petitioner is falsely implicated in the present case and is in custody for the last about 1 year and 8 months and is having no criminal history and till date, the prosecution failed to examine any witness on its behalf and it will take time for the trial to conclude. It is further submitted that co-accused Bhola Singh is already

given concession of regular bail. So, prayer is made that the petitioner be also released on bail. In support of his contentions, counsel for the petitioner has placed reliance upon the decision of Hon'ble Supreme Court in **Hasanujjaman and others v. the State of West Bengal**, Special Leave to Appeal (Criminal) No.3221 of 223 decided on 4.5.2023 where in a case relating to recovery of commercial quantity of contraband, the accused was granted regular bail as he was in custody for more than one year and four months and was having no criminal antecedents.

4. Present petition is resisted by the State counsel who submits that commercial quantity of contraband was recovered from the petitioner and the said recovery comes under stringent provisions of Section 37 of NDPS Act. However, the State counsel has not disputed the fact that till date, the prosecution is unable to examine any witness and that the petitioner is in custody for the last more than 1 year and 8 months and is having no criminal antecedents.

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

6. As per prosecution version, commercial quantity of medical intoxicants were recovered from possession of the petitioner who is in custody for the last about 1 year and 8 months. The petitioner is having no criminal antecedents and as has been admitted by the State counsel, it will take time for the trial to conclude as till date, no witness is examined from the side of the prosecution. There is nothing on record to establish that the petitioner is responsible in any manner for the delay in trial. It being so, further incarceration of the petitioner would be violative of his right enshrined under Article 21 of the Constitution of India and rigors of Section

37 of NDPS Act can be diluted bearing in mind the right to a speedy trial. Thus, no useful purpose is going to be served by keeping the petitioner in custody for any further period.

7. In view 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 regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

April 16, 2024
Paritosh Kumar

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