

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

213

CRM-M-40412-2023
Date of Decision.:24.04.2024

Himanshu Sharma @ HoneyPetitioner
Vs.Respondent
State of Punjab

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Ms. Mehak Bedi, Advocate for
Mr. Vivek K. Thakur, Advocate
for the petitioner.

Mr. Sahil R. Bakshi, AAG, Punjab
assisted by ASI David Masih.

DEEPAK GUPTA, J. (ORAL)

The petitioner is seeking regular bail by way of petition filed under Section 439 Cr.P.C in case FIR No.38 dated 11.03.2023 registered under Sections 21(a), 22 of the NDPS Act, 1985 registered at Police Station Adampur, District Jalandher (Rural).

2. As per the prosecution allegations, on 11.03.2023 a police party noticed a person coming from the side of Kathar. He was signaled to stop but at the sight of the police party, he became perplexed and threw two transparent plastic envelopes on the ground, which he was holding earlier in his right hand. He was apprehended. After making necessary statutory compliances search of the transparent ploythene bags was taken and the same were found to contain 50 intoxicating tablets which were taken into

possession. On analysis, the tablets were found to contain the salt of Etizolam with average weight of 199 mg i.e. total weight of 9.95 gm.

3. Learned counsel for the petitioner contends that petitioner has been falsely implicated; that no prudent person will carry the intoxicating substance in transparent polythene in such a way that the same could be visible to anybody; that petitioner is in custody for the last more than 01 year and that trial will take long time to conclude and so, he be allowed bail.

4. Learned State counsel has opposed the bail petition by submitting that the recovered quantity of contraband falls in the commercial category and so rigors of Section 37 of NDPS Act will be applicable. Learned State counsel also pointed out that petitioner is involved in one more case pertaining to NDPS Act. The custody certificate placed on record reveals that petitioner is in custody for the last 01 year 01 month and 13 days. Although petitioner is involved in one more case pertaining to NDPS Act but it is informed by learned counsel for the petitioner that that case pertain to small quantity, in which he is already on bail. Learned State counsel, on instructions from ASI Davi Masih, also informs that out of 09 witnesses cited by the prosecution, only 01 has been examined so far. Thus trial is likely to take long time to conclude.

5. Considering the fact that petitioner was allegedly carrying the intoxicating tablets in transparent ploythene bag, which he had allegedly thrown, it will be a matter of trial as to whether the recovery was effected from the conscious possession of the petitioner.

6. Having regard to all the above facts and circumstances, the

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rigors of Section 37 of the NDPS Act is required to be balanced with Article 21 of the Constitution of India guaranteeing Fundamental Right to life and liberty of which speedy trial is a facet.

7. As such, this petition is allowed and petitioner is admitted to bail on his furnishing bail bonds/surety bonds to the satisfaction of the Learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

(DEEPAK GUPTA)
JUDGE

April 24, 2024
Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No