

208. 2024:PHHC:039365
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41050-2023
Date of decision: 19.03.2024

Shamsher Singh Petitioner

Versus

State of Haryana Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Parminder Singh Sekhon, Advocate, for the petitioner.
Mr. Karan Sharma, DAG, Haryana.

GURBIR SINGH, J.

1. This is second petition that has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.280, dated 09.11.2021, registered under Sections 22-C and 29 of NDPS Act 1985 at Police Station Guhla, District Kaithal. The earlier petition i.e. CRM-M-28247-2022 was withdrawn vide order dated 12.05.2023.
2. The allegation against the petitioner is that recovery of 6960 tablets of Tramadol Hydrochloride 100 mg was effected from his conscious possession.
3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in this case. He is in custody since 09.11.2021. Out of 15 witnesses cited by the prosecution, only 4 witnesses have been examined so far. There is no other case against him. Trial in the case will take time. Investigation qua the petitioner is complete and nothing is to be

recovered from him, so, no useful purpose would be served by keeping him behind bar any longer.

4. Learned State counsel opposed the bail to the petitioner by contending that recovery so effected from the possession of the petitioner comes under commercial quantity. If he is released on bail, he can indulge in similar offence again. However, he fairly submits that there is no other case against the petitioner and out of 15 witnesses, only four witnesses have been examined so far.

5. To refute the contention of learned State counsel regarding recovery of commercial quantity, learned counsel for the petitioner has relied upon orders of Hon'ble Supreme Court in ***Nandalal Mondal @ Abhay Mondal Versus the State of West Bengal, Special Leave to Appeal (Crl.) No.12788 of 2023, decided on 03.01.2024*** and ***Md. Altul Islam @ Altul Islam @ Altul Versus the State of West Bengal, Criminal Appeal No.1202 of 2024 arising out of SLP (Crl.) No.736 of 2024, decided on 26.02.2024*** and submits that the appellants/petitioner in those cases have been granted bail.

6. I have heard learned counsel for the petitioner, learned State counsel and have gone through the paper book.

7. In ***Nandalal Mondal @ Abhay Mondal (supra)***, the Hon'ble Supreme Court has granted bail where the petitioner along with other accused persons was found in possession of commercial quantity i.e. 10,000 ml. of codeine phosphate- a cough syrup which is notified as a narcotic substance, and was in custody for the last one and a half year.

Similarly, in *Md. Altul Islam @ Altul Islam @ Altul (supra)*, huge quantity of cough syrup was recovered from the appellant which was of commercial quantity. He was in custody for the last 1 year and 4 months and was granted bail.

8. Considering the fact that the petitioner is in custody since 09.11.2021 i.e. 2 years and 4 months; there is no other case against him; trial in the case will take long time and recovery from the petitioner is of manufactured drug, so he deserves concession of bail.

9. Accordingly, without commenting upon the merits of the case, the present petition is allowed and the petitioner is directed to be released on regular bail, on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.

10. However, it is made clear that in case the petitioner is found involved in any other case under the NDPS Act, in that event, the bail granted to him shall stand cancelled automatically and he shall be liable to surrender immediately.

11. Any observation made herein shall not be construed as an expression of opinion on merits of the case and the trial Court shall decide the case on the basis of material available before it.

(GURBIR SINGH)
JUDGE

March 19, 2024

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