

S. No.223

2024:PHHC:031228

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

CRM-M-42129 of 2023

Date of Decision:05.03.2024

Gurwinder Singh @ Guggu

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. K.S. Brar, Advocate for the petitioner.

Mr. Amandeep Singh, DAG, Punjab.

DEEPAK GUPTA, J. (Oral)

Status report by way of affidavit of Shri Satnam Singh, PPS, Deputy Superintendent of Police, Sub Division Sri Muktsar Sahib has been filed on behalf of the respondent- State, along with the custody certificate.

2. Fresh Power of Attorney has been filed on behalf of the petitioner.

3. By way of present petition filed under Section 439 Cr.P.C., petitioner prays for grant of regular bail in case FIR No.61 dated 30.04.2023 registered under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') and Section 15(2)(b) of the Indian Medical Council Act, at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib, Punjab.

4. As per allegations, Police Party was on patrolling when petitioner was apprehended with a transparent polythene bag. The same was found to contain 30 tablets of Etizolam IP 0.5 mg and 150 capsules of V-Gab-300. The same were taken into possession after making statutory compliances.

5. As per the status report filed by the respondent- State, the total weight of Etizolam in the 30 tablets was found to be 5.4 grams, which is much more than the commercial quantity which starts from 2.5 grams.

6. Learned counsel for the petitioner contends that the petitioner has been falsely implicated as it is not comprehensible that a person will carry the contraband in a transparent polythene bag. Learned counsel has also drawn attention towards the Search Memo as well as the Recovery Memo revealing that the signatures of the petitioner were not taken thereon. In the status report filed by the respondent- State, this fact is conceded that there is no signatures of the petitioner on the Seizure Memo though it is mentioned that it was not required.

7. Learned counsel for the petitioner has further drawn attention towards the status report as per which sample parcels were sent to RTFSL, Bathinda initially on 05.05.2023 but the same were returned due to some defect and after removing the same, the sample was sent on 16.05.2023 i.e. 17 days after the date of recovery. Learned counsel further contends that the petitioner is in custody for the last more than 10 months; that he is not involved in any other case; that trial is not proceeding further and that not even a single witness has been examined so far, so the petitioner be allowed bail.

8. As per the custody certificate placed on record by learned State Counsel, petitioner is in custody for the last 10 months and 05 days. He is not involved in any other case.

9. Learned State Counsel informs that out of 22 witnesses cited by the prosecution, not even a single witness has been examined so far.

10. Having regard to all the facts and circumstances as have been noted above, but without commenting anything on the merits of the case, the present petition is allowed. Petitioner is admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/ Duty Magistrate concerned, on usual terms and conditions.

March 05, 2024
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(DEEPAK GUPTA)
JUDGE

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