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

CRM-M-46284-2022

Date of decision: 29.02.2024

Gurmeet Singh @ Lakhi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. J.S. Sandhu, Advocate for the petitioner.

Mr. Inderjeet Singh, DAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail in case having FIR No.96 dated 22.04.2022 under Section 22(c) NDPS Act, registered at Police Station Canal Colony, Bathinda.

2. As per prosecution version, police apprehended petitioner along with 30 vials of COCREX and 45 strips having 10 tablets each of carisoprodol tablets. The petitioner was arrested at the spot.

3. The counsel for the petitioner submits that the petitioner was falsely implicated in the present case and is in custody for the last more than 1 year and 10 months and is already acquitted in one another case under NDPS Act vide judgment dated 24.04.2019 and produced copy of the said

judgment which is taken on record. The counsel for the petitioner further submits that in the given circumstances the petitioner is entitled to concession of regular bail. In support of his contention, the petitioner has placed reliance upon SLP (Crl.) No. 12788 of 2023 titled as Nandalal Mondal @ Abhay Mondal Vs. The State of West Bengal decided on 03.01.2024 wherein, in a case of commercial quantity of contraband (a cough syrup), the accused was granted bail on account of the fact that he was in custody for more than 1 year and 6 month.

4. The present petition is opposed by the State counsel who submits that in the instant case commercial quantity of contraband was recovered and as such stringent provisions of Section 37 of NDPS Act are applicable. The State counsel further submits that after completion of investigation, challan has been presented but till date, prosecution is unable to examine any witness. The State counsel has not disputed the fact that petitioner is in custody for last more than 1 year and 10 months and has been acquitted in the another case faced by him under NDPS Act.

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

6. As per prosecution version, commercial quantity of medical intoxicants were recovered from possession of the petitioner on 22.04.2022. The petitioner is in custody for the last more than 1 year and 10 months and at present is not facing any other criminal case under NDPS Act. As has been apprised by the State counsel, the trial is not progressing ahead as till date, no prosecution witness is examined. Thus, it will take considerable time for trial to terminate. The petitioner is not responsible for the aforesaid

delay in disposal of the trial. It is settled position of law that whatever be the nature of offence, a prolonged trial against an accused under custody, would be violative of Article 21 of the Constitution of India and such a long incarceration also weaken the rigors of Section 37 of NDPS Act. In the given circumstances, no fruitful purpose is going to be served by detaining the petitioner in custody for any longer period.

7. In the light of the above, without expressing any opinion 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.

29.02.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

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