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

CRM-M-47058-2023

Date of decision : 02.08.2024

**Punjab Singh****.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Sandeep Gahlawat, Advocate  
for the petitioner.

Mr. J.S. Arora, D.A.G., Punjab.

**RAJESH BHARDWAJ, J. (Oral)**

Present petition has been filed by the petitioner under Section 439 Cr.P.C. praying for grant of regular bail in case FIR No.59 dated 04.12.2022, under Sections 22 & 29 of NDPS Act, 1985 registered at Police Station Dharamgarh, District Sangrur.

Adumbrated facts of the case are that the Police party while on patrolling spotted a person coming with a black colour plastic polythene in his right hand. However, on seeing the police party, he threw away the same and tried to escape. On suspicion, he was apprehended and on asking he disclosed his name as Punjab Singh (present petitioner) S/o Labh Singh R/o Near Dharamshala Rattakhera, P.S. Lehra. On conducting search of the polythene plastic envelope thrown by him, white coloured intoxicating tablets make Tramadol were found inside the bag. On checking the total intoxicants tablets were found to be 1000 in number.

The petitioner failed to produce any licence for possession of these



intoxicants. He was apprehended and FIR was registered against him. Investigation was commenced and samples were sent to the Forensic Science Laboratory and the petitioner was arrested. On receipt of report from Forensic Science Laboratory, the contraband was found to be Tramadol Hydrochloride and average weight of each tablet was 379/mg and the total weight of the contraband comes out to be 379 grams. Thereafter, the petitioner approached the Ld. Judge, Special Court, Sangrur for grant of bail, however, after hearing both the sides, the same was declined by the Judge, Special Court, Sangrur vide order dated 05.09.2023. Aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

It has been contended by counsel for the petitioner that petitioner has been falsely implicated in the present case due to party faction. He submits that as per case of the prosecution, recovery was effected from the petitioner in a public place, however, no independent witness was joined by the police party. He submits that there is violation of mandatory provision of Section 50 of the NDPS Act in effecting the recovery from the petitioner. He has further contended that on receipt of FSL report, the weight of contraband was found to be 379 grams whereas as per Schedule of the NDPS Act, the contraband weighting more than 250 grams, falls under the category of commercial quantity. He submits that the petitioner is never involved in any similar case earlier. He submits that the petitioner is behind bars since the date of his arrest and thus, has completed an incarceration of about 01 year and 08 months, however, there is no progress in the trial till date and thus, his right of speedy trial is also being violated. He submits that in the facts and circumstances of the present case, he deserves to be granted regular bail.



Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner was arrested from the spot along with contraband and on receipt of the FSL report, same was found to be of Tramadol Hydrochloride and provision of Section 37 of NDPS Act is attracted in the present case. He submits that as per the custody certificate the petitioner is behind bars from last about 01 year and 08 months and there is no other case against the petitioner. He submits that in all there are 14 prosecution witnesses, only 01 has been examined and 06 witnesses have been given up. He submits that in the overall facts and circumstances of the case, petitioner does not deserve to be granted bail.

Heard. On hearing counsel for the parties and perusing the record, it is apparent that the petitioner, on seeing the policy party had thrown the contraband, from which Tramadol Hydrochloride was recovered. No independent witness was joined as is apparent from the case of the prosecution. The custody certificate would reveal that the petitioner is not involved in any other case except the present one. Custody certificate further reveals that the petitioner has undergone about 01 year, 07 months and 25 days as on 01.08.2024.

In view of the facts and circumstances of the present case, this Court cannot ignore the fact that the speedy trial is the fundamental right of every accused. As held by the Hon'ble Supreme Court in **Mohd Muslim @ Hussain Vs. State (NCT of Delhi), 2023 LiveLaw(SC)260**, this Court is of the opinion that the case of the petitioner is covered by the ratio laid down by the Hon'ble Supreme Court. In the abovesaid case Hon'ble Supreme Court expressed its views as under:-

*19. A plain and literal interpretation of the conditions under*



*Section 37 (i.e., that Court should be satisfied that the accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special conditions as enacted under Section 37 can be considered within constitutional parameters is where the court is reasonably satisfied on a prima facie look at the material on record (whenever the bail application is made) that the accused is not guilty. Any other interpretation, would result in complete denial of the bail to a person accused of offences such as those enacted under Section 37 of the NDPS Act.*

20. xxxxx

21. ....it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable.

22. xxxxx

23. *There is a further danger of the prisoner turning to crime, “as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal”<sup>22</sup> (also see Donald Clemmer’s ‘The Prison Community’ published in 1940<sup>23</sup>). Incarceration has further deleterious effects - where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.*



The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

02.08.2024  
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( RAJESH BHARDWAJ )  
JUDGE

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