

CRM-M-54573-2023

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

CRM-M-54573-2023

Date of Decision: 26.11.2024

Jasvir Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

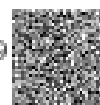
CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Lokesh Vohra, Advocate for the petitioner.
Mr. J.S. Arora, DAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting him regular bail in case FIR No.237 dated 20.07.2022 under Section 22 of the NDPS Act, registered at Police Station Dera Bassi, SAS Nagar.

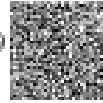
2. As per the facts of the case, on 20.07.2022, the Police party while on patrolling received a secret information to the effect that Jasveer Singh son of Gurmeet Singh is habitual of selling narcotic pills etc. and he was coming to Derabassi from UP side carrying narcotic pills and if his checking is done at the bus stand Derabassi, then he could be caught alongwith the contraband. On finding the information reliable, FIR was registered and naka was laid. On confirmation of the information given by the secret informer, a person was stopped who on asking disclosed his name to be Jasveer Singh. His search was conducted and in all 8900 tablets of Alprazolam were recovered from him. He failed to produce any licence regarding the possession of the contraband and he was arrested on spot. Samples taken were sent to the FSL. On completion of the investigation, challan was presented and learned trial Court on framing charges



commenced with the trial. The petitioner approached the Court of learned Judge, Special Court, SAS Nagar (Mohali) praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail application filed by the petitioner vide order dated 06.04.2023. Hence, the petitioner approached this Court praying for grant of bail.

3. It has been vehemently contended by counsel for the petitioner that petitioner has been falsely and frivolously implicated in this case. He submits that the present case admittedly is registered on the basis of the secret information, however, without there being the compliance of mandatory provisions of Section 42 of the NDPS Act, the petitioner was arrested and recovery has been planted on him. He submits that even there is a violation of mandatory provisions of Section 50 of the NDPS Act. He submits that no independent witness has been joined by the Investigating Agency. He submits that the petitioner is behind bars since the date of his arrest, however, till date the trial is not concluded. He submits that though the petitioner is falsely prosecuted in other cases also, however, he has been granted bail in those cases. He submits that from the overall facts and circumstances of the case, it is apparent that the right of speedy trial of the petitioner has been denied in the present case. He thus submits that the petitioner deserves to be granted bail.

4. Learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that after due compliance of Section 42 of the NPDS Act, the FIR was registered and heavy recovery of Alprazolam tablets was effected from the petitioner. He submits that



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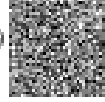
recovery effected from the petitioner is commercial and thus, provisions of Section 37 of NDPS Act are attracted in this case. He submits that out of total 10 prosecution witnesses, 05 witnesses have been examined and 01 witness has been given up. He further submits that the petitioner is involved in many other criminal cases also. He thus, submits that 04 witnesses still remain to be examined, hence, the present petition deserves to be dismissed.

5. Heard.

6. After hearing counsel for the parties and perusing the record, it is apparent that on the basis of secret information, the petitioner was arrested on 20.07.2022 with alleged 8900 tablets of Alprazolam. Four witnesses still remain to be examined, however, the petitioner is behind bars from the last more than two years. Needless to say that every accused has right of speedy trial.

7. 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.

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21it 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.

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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"²² (also see Donald Clemmer's 'The Prison Community' published in 1940²³). 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.'

8. 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. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.

9. 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 trial Court/Duty Magistrate.

10. It is being clarified that in case the petitioner does not furnish bail/surety bonds within a period of one week from today, his custody will not be counted in the present case after one week.
11. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

		(RAJESH BHARDWAJ)
		JUDGE
26.11.2024	Whether Speaking/Reasoned :	Yes/No
sharmila	Whether Reportable :	Yes/No