

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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2024:PHHC:008881  
CRM-M-56273 of 2023  
Date of decision: 23.01.2024

Joona Kumar

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Kunal Choksi, Advocate for the petitioner.

Mr. Jiteshwar Bhandari, AAG, Punjab.

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KARAMJIT SINGH, J.(ORAL)

Prayer in this 4<sup>th</sup> petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.9, dated 09.01.2022, registered for the offences punishable under Sections 20(b) (ii) (c) of NDPS Act, at Police Station Salem Tabri, District Ludhiana.

2. The case of the prosecution in nutshell is that the petitioner and one Ravi Singh were arrested by the Police on 09.01.2022 and 2 Kilograms of *charas*, one electronic *kanda* and 50 empty polythene bags/envelopes were recovered from the spot.

3. Counsel for the petitioner submits that the petitioner, who is having no criminal history, was falsely implicated in the present case and after completion of investigation, the police presented challan and charges were framed. But the trial is not progressing ahead and that the petitioner is in custody for the last more than 2 years and it will take time for the trial to conclude. So, prayer is made that the petitioner be released on regular bail.

4. Present petition is resisted by the State counsel who on instructions from ASI Shingara Singh submits that commercial quantity of contraband was recovered from possession of the petitioner and embargo provided under

State counsel has not disputed the fact that the petitioner is having no criminal history and is incarcerated for the last 2 years and that it will take considerable time for the trial to terminate.

5. I have considered the submissions made by the counsel for the parties.
6. Case of the prosecution is that 2 Kilograms of *charas* was recovered from possession of the petitioner and the same comes under commercial quantity as per provisions of NDPS Act. Admittedly, the petitioner is in custody for the last more than 2 years and is having no criminal antecedents. Further, it will take time for trial to conclude as till date, only two witnesses are examined out of total 15 witnesses on behalf of the prosecution. Undoubtedly, inordinate delay in trial inflicts the petitioner's fundamental right to a speedy trial as enshrined under Article 21 of the Constitution of India. In light of the fact that the petitioner is in custody for the last more than 2 years and the trial is not progressing ahead, rigors of Section 37 of NDPS Act stand diluted to an extent and the petitioner can be granted bail keeping in mind right to speedy trial as envisaged under Article 21 of the Constitution of India.
7. In view of the above, without commenting 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.

**January 23, 2024**

Poonam Sharma

**(KARAMJIT SINGH)  
JUDGE**

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