

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-56996-2023

Date of Decision: 14.2.2024

Kulwinder Singh @ Gaddo

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. A.S.Brar, Advocate
for the petitioner.

Mr. J.S.Dhaliwal, AAG, Punjab

KARAMJIT SINGH, J.

Prayer in the present 2nd petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.176 dated 13.9.2021 registered for the offences punishable under Sections 22 of NDPS Act at Police Station Nihal Singh Wala, District Moga.

2. Counsel for the petitioner, *inter alia* contends that the petitioner is in custody since 13.9.2021 and is not involved in any other criminal case; that the petitioner has been falsely implicated in the present case; that there are allegations that 15 strips each containing 10 tablets of Ralin 0.5, having batch number, date of manufacture and expiry date and 5 strips each having 10 tablets of Etizolam 0.5 mg having batch number were recovered from the petitioner by the police on 13.09.2021. Counsel for the petitioner further submits that copy of the concerned recovery memo is Annexure P-3; that as per prosecution, representative samples of the aforesaid medical intoxicants

were sent for analysis to FSL; that as per report of FSL (Annexure P-4), tablets which were sent for examination were not bearing any batch number, date of manufacture and expiry date. It is further contended that it being so, the prosecution has failed to connect the report of FSL (Annexure P-4) with the articles mentioned in the recovery memo (Annexure P-3). He further submits that even otherwise, the petitioner is in custody for the last more than 2 years and it will take considerable time for the trial to conclude. So, prayer is made that the petitioner be released on bail.

3. Present petition is resisted by the State counsel who submits that in the present case, commercial quantity of contraband was recovered from possession of the petitioner on 13.9.2021 and that strict provisions of Section 37 of NDPS Act are applicable and that the trial is going on. So, prayer is made that the present petition be dismissed.

4. The assertions made by the counsel for the petitioner regarding the fact that the report of FSL (Annexure P-4) is silent with regard to batch number etc, being a moot point will be dealt by the learned trial Court at the time of final arguments.

5. As per the record, it is evident that the petitioner was arrested in the present case on 13.9.2021 and as such, his custody period comes out to be more than 2 years. From the perusal of the custody certificate, it appears that the petitioner is not involved in any other criminal case. It will take considerable time for the trial to conclude.

6. In **Nitish Adhikary @ Bapan v. The State of West Bengal**, SLP (Criminal) No.5769 of 2022 decided on 1.8.2022, the accused involved in a case relating to recovery of commercial quantity of contraband was granted bail as he had undergone custody for a period of 1 year and 7

months and the trial was at the preliminary stage and the accused was not having any criminal antecedents.

7. In the given circumstances, no purpose is going to be served by detaining the petitioner in custody for any longer period.

8. 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.

(KARAMJIT SINGH)
JUDGE

February 14, 2024
Paritosh Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No