

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARHCRM-M-62605 of 2023(O&M)
Date of Decision: 18.01.2024

Sahil Nanda @ Billa

...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Kashish Aggarwal, Advocate
For the petitioner.

Mr. G.S. Sidhu, AAG Punjab.

KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioner seeking grant of regular bail in criminal case having FIR No. 89 dated 04.07.2020, registered under Section 22 of Narcotic Drugs and Psychotropic Substances Act (for short, the Act) at Police Station Tibber, District Gurdaspur.

2. The case of the prosecution in nutshell is that on 03.07.2020 the police recovered 240 strips each containing 10 tablets of Clovidol 100 SR i.e. 2400 tablets and 31 packets each containing 100 capsules of Parvorin Spas-Ridley i.e. 3100 capsules, from conscious possession of the petitioner.

3. The counsel for the petitioner submits that the petitioner is in custody since 03.07.2020 and is falsely implicated in the present case and that it will take considerable time for the trial to conclude. The counsel for the petitioner further submits that long incarceration for period of one year and nine months itself is a ground for grant of bail and the further incarceration of the petitioner would be violative of his fundamental right

enshrined under Article 21 of the Constitution of India. The counsel further

submits that furthermore the medical intoxicants alleged to be recovered from the petitioner were not bearing any batch number, date of manufacture and expiry date and thus the entire medical intoxicants should have been sent for their analysis to the laboratory. That, however, as per report of FSL only 1 strip labeled as 'Clovidol-100 SR' containing 10 tablets and 10 loose capsules printed with 'Ridley' were sent for examination to the FSL and the same cannot be treated as representative samples of the entire alleged contraband. The counsel for the petitioner made prayer that the petitioner be released on regular bail.

4. The status report by way of affidavit of Sukhpal Singh, Deputy Superintendent of Police, City, District Gurdaspur filed on behalf of the State is taken on record.

5. The State counsel while resisting the present petition submits that the proper sampling was done by the Investigating Officer and the samples reached the office of FSL in their intact condition. It is further contended that the commercial quantity of medical intoxicants were recovered from possession of the petitioner and rigors of Section 37 of the Act are applicable in the instant case and now only three witnesses remain to be examined on behalf of the prosecution and further the petitioner is already convicted in one another case under the Act.

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

7. Admittedly, the petitioner is in custody for last more than one year and nine months and it will take considerable time for the trial to conclude. Even if the petitioner is a previous convict, rigors of Section 37 of the Act can be diluted bearing in mind the fact that the petitioner is in

custody for about one year and nine months and is having right to a speedy trial.

8. As per the recovery memo, it appears that the medical intoxicants recovered in the present case were not bearing any batch number, date of manufacture and expiry date. So, it is a moot point that parcel containing one strip labeled as 'Clovidol-100 SR' having 10 tablets and another parcel having 10 lose capsules printed with 'Ridley' on the shells are to be considered as representative samples of the entire medical intoxicants stated to be recovered from possession of the petitioner.

9. Further, it will take time for the trial to conclude as some of the prosecution witnesses still remain to be examined.

10. In light of the above, this Court is of the view that no purpose is going to be served by detaining the petitioner in custody for any longer period. So, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing of bail bonds and heavy surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

18.01.2024

Jiten

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No