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

CRM-M-63608-2023

Date of decision : 19.09.2024

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

Present :- Mr. Ishan Gupta, Advocate with
Ms. Palvi, Advocate
for the petitioner.

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

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed by the petitioner under Section 439 Cr.P.C. praying for grant of regular bail in case FIR No.110 dated 11.08.2023, under Sections 22 (b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Kotbhai, District Sri Muktsar Sahib.

2. As per the case of the prosecution on 11.08.2023, while checking of suspicious persons, the Police spotted a clean shaven person near the cremation ground, who was carrying a green coloured polythene bag in his hand. On suspicion he was stopped and he was asked to be searched for the bag he was carrying. The polythene bag was searched and on searching 100 tablets make Tramadol Hydrochloride were recovered from the same. The person disclosed his name as Satpal Singh @ Satta (petitioner). He failed to produce any licence for possession of the same and thus, the FIR was registered and he was arrested on the spot. The



samples were taken and sent to the FSL. Thereafter, the petitioner approached the Learned Additional Sessions Judge, Sri Muktsar Sahib for grant of bail, however, after hearing both the sides, the same was declined by the Learned Additional Sessions Judge vide order dated 26.09.2023. Aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

3. It has been contended by counsel for the petitioner that petitioner has been falsely implicated in the present case. It is submitted that the alleged contraband has been recovered from the petitioner while he was carrying the bag, however, there is a gross violation of mandatory provision of Section 50 of the NDPS Act. It is further submitted that the search was made in a public place, however, no public witness has been joined by the investigating agencies. He further submits that though the petitioner is falsely implicated in another case as well, however, the same also pertains to the non-commercial quantity and he is on bail in that case. He submits that in the present case also the alleged recovery was under the non-commercial quantity and thus, the provisions of Section 37 of the NDPS Act are not attracted. It is submitted that the investigation is complete and charges have been framed, however, there is no progress in the investigation, despite the fact that the petitioner is in incarceration from last more than 01 year. He submits that in the facts and circumstances of the present case, petitioner deserves to be granted regular bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner and has submitted that the petitioner was arrested on spot and on conducting the search as per the mandate of the Act, the contraband i.e. 100 drug tablets make Tramadol



Hydrochloride was recovered from the petitioner. It is submitted that it has been established from the FSL report that the same was Tramadol Hydrochloride. Though as per the weight, it falls under the non-commercial category. As per the custody certificate the petitioner is behind bars from last more than 1 year and in other case also he is on bail.

5. Heard. On hearing counsel for the parties and perusing the record, it is apparent the petitioner is behind bars from the date of his arrest i.e. 11.08.2023. Investigation is complete and the charges are also framed. However, as submitted by learned State counsel out of total 19 prosecution witnesses, no prosecution witness has been examined. Needless to say that provisions of Section 37 of the NDPS Act are not applicable, the quantity being non-commercial.

6. 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.

(RAJESH BHARDWAJ)
JUDGE

19.09.2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No