



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

**CRM-M-64677-2023**

**Date of Decision: 06.09.2024**

**Balishter Sahni**

**...Petitioner**

**Versus**

**State of Haryana**

**...Respondent**

**CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Amit Chaudhary, Advocate and  
Mr. Hritik Gupta, Advocate  
for the petitioner.

Mr. Vivek Chauhan, Addl. A.G. Haryana.

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**DEEPAK MANCHANDA J. ORAL**

1. This is second petition under Section 439 Cr.P.C. seeking regular bail in the case bearing FIR No.286 dated 09.06.2022 (Annexure P-1) registered under Sections 20 & 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short – NDPS Act) at Police Station Industrial Sector-29, Panipat, District Panipat (Haryana), first such petition bearing No.CRM-M-55280-2022 was dismissed on 15.05.2023 (Annexure P-5).

2. As per the allegations levelled in the FIR, on 09.06.2022, when a police party was on patrolling duty, a secret informer informed that petitioner was indulged in supplying charas in Haryana and visited Sabzi Mandi, Panipat to supply the same. On the basis of said information, barricading was done and on the basis of suspicion, he was apprehended and on being searched 4 kg. 200 gms. of charas was recovered from his possession.

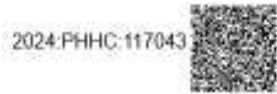
3. Learned counsel for the petitioner contends that the petitioner has



been apprehended on the basis of secret information whereas no information was sent to the senior officials and there is non-compliance of Section 50 of the NDPS Act, where the petitioner should have been searched in the presence of a Gazetted officer or a Magistrate. Learned counsel further contends that after dismissal of earlier bail on 15.05.2023, till today out of 14 witnesses which have been cited by the prosecution only two witnesses have been examined and there is no progress in the trial and petitioner has clean antecedents who is in custody since the date of FIR i.e. 09.06.2022. Learned counsel has also argued that failure to conclude the trial within a reasonable time which has resulting in prolonged incarceration, the same militates against the precious fundamental right guaranteed under Article 21 of the Constitution of India, and as such, conditional liberty overriding the statutory embargo created under Section 37(1)(b) of the NDPS Act be considered in the present case where petitioner has already spent more than two years. His further submission is that co-accused Pardeep Kumar has been granted regular bail by this Court vide order dated 28.03.2023 passed in CRM-M-46805-2022 and as such he prays for grant of concession of regular bail to the petitioner.

4. To support his contentions, he relies upon order of the Hon'ble Apex Court dated 28.05.2024 in case titled as *Ankur Chaudhary Vs. State of Madhya Pradesh*, dated 10.05.2024 titled as *Alamgir Sardar Vs. State of West Bengal* and dated 05.08.2024 *Ajay Kumar Bharti Vs. State of Chhattisgarh*.

5. On the other hand, learned State Counsel on instructions from the Investigating Officer has opposed the aforesaid prayer for grant of bail on the ground that the quantity which has been recovered is commercial in nature,



however, does not dispute that the charges have already been framed, two(2) prosecution witnesses have been examined, three(3) witnesses were given up, and petitioner has no other case pending against him.

6. I have heard learned counsel for the parties and gone through the case file and custody certificate produced by the learned State counsel. It is to observe that failure to conclude the trial has resulted in a prolonged incarceration which is against the Article 21 of the Constitution of India. Admittedly, there is not much progress in the trial and the petitioner is in custody since 13.06.2022 who has undergone 02 years, 02 months and 24 days and is a first time offender with no other criminal antecedents. Moreover, charges have already been framed by the trial Court where the conclusion of trial will take some time, coupled with the fact that co-accused has been granted bail, therefore, no useful purpose would be served by keeping the petitioner in further incarceration.

7. As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

8. The petition is allowed.

06.09.2024  
sapna

(DEEPAK MANCHANDA)  
JUDGE

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