



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

CRM-M-49518-2024

Date of decision : 29.01.2025

Abhishek

....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Ankit Bishnoi, Advocate and
Mr. Hanspal Virk, Advocate for the petitioner.

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

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed for grant of regular bail in case FIR No.142 dated 12.12.2022, under Sections 22(c)/29 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Khuian Sarver, District Fazilka.

2. Succinctly the facts of the case are that the Police party while on patrolling on 12.12.2022, saw two young persons holding their bags. On suspicious they were stopped and they were asked their names. On asking they disclosed their name as Lal Krishan @ Parveen S/o Ved Parkash and Abhishek (petitioner) S/o Sham Sunder. On suspicion, the offer to search the bags was given and on conducting the search recovery of 140 narcotic bottles of 100 ml each make Chlorpheniramine Maleate & Codeine Phosphate Syrup and 1300 tablets of Carisoprodol were recovered from the present petitioner and of 150 narcotic bottles of 100 ml each make Chlorpheniramine Maleate & Codeine Phosphate Syrup and 1400 tablets of Carisoprodol were recovered from the co-accused, namely Lal Krishan @ Parveen. They failed to produce any license regarding possession of the same and hence, the FIR was registsered and the petitioners were arrested on spot. The investigation commenced and



samples taken from the contraband were sent to FSL. On completion of the investigation, challan was presented and on framing the charges, the trial Court proceeded with the trial. The petitioner approached the Learned Judge, Special Court, Fazilka praying for grant of bail, however, finding no merit, the same was declined after hearing both the sides by Learned Judge, Special Court, Fazilka vide order dated 31.05.2024. Aggrieved by the same, the petitioner approached this Court praying for grant of bail.

3. Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in the present case. He submits that the alleged recovery has been effected from a public place, however, no independent witness was joined by the investigating agency. It is submitted that there are allegedly two accused who were given joint offer by the Investigating Officer and thus, there is gross violation of Section 50 of NDPS Act. He submits that the tablets recovered from the petitioner do not fall under the purview of NDPS Act, whereas the syrup bottles recovered have been planted on the petitioner. He submits that the petitioner has no criminal antecedents as he has never been involved in any other case. He submits that the petitioner is behind bars from last more than 02 years, however, there is no progress in the trial. He also submits that theailable warrants of the witnesses have also been issued by the trial Court for securing the presence of the witnesses. He submits that in the facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Learned State counsel, on instructions, has opposed the submissions made by the counsel for the petitioner and submits that the contraband recovered from the petitioner was found to be Codeine phosphate which is a heavy commercial quantity and thus, the provisions

of Section 37 of NDPS Act, are attracted. He submits that there is no violation of Section 50 of the NDPS Act. He submits that out of total 16 prosecution witnesses, only 02 have been examined so far.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the alleged recovery effected from the petitioner is 140 narcotic bottles of 100/100 ml make Chlorpheniramine Maleate & Codeine Phosphate Syrup and 1300 tablets of Carisoprodol. The recovery has been effected from a public place. The custody certificate, as submitted before this Court, would show that the petitioner is not involved in any other case under the NDPS Act, though he is involved in other cases but for the offences under the IPC Act. There is no gain saying that speedy trial is the fundamental right of every accused, however, out of 16 prosecution witnesses, 02 witnesses have been examined till date.

6. The veracity of the allegations would be assessed only after 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 to the petitioner. 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 trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

29.01.2025
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No