

**CRM-M-50081 of 2024 (O&M)****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-50081 of 2024 (O&M)****Date of decision : January 23, 2025****Lakhwinder Singh @ Lakha****..... Petitioner****Versus****State of Punjab****..... Respondents****CORAM : HON'BLE MR. JUSTICE JASGURPREET SINGH PURI*********

Present :- Mr. Mikhail Kad, Advocate
for the petitioner.

Mr. P. S. Bhandari, AAG., Punjab.

*********JASGURPREET SINGH PURI, J (Oral)**

1. The present is a fourth petition filed under Section 483 of the B.N.S.S. for grant of regular bail to the petitioner in case bearing FIR No.28 dated 06.03.2020, under Sections 22/25/29/61 of the NDPS Act, 1985 and Sections 473, 411 of IPC registered at Police Station Dhanaula, District Barnala.

2. It has been submitted by learned counsel for the petitioner that the petitioner is in custody for 4 years 10 months and the trial is not moving at a proper pace and considering the long custody of the petitioner, he may be considered for grant of regular bail. He has submitted that allegations against the petitioner are that the police had an information pertaining to two cars in which petitioner and other co-accused were bringing intoxicant substance and intoxicant tablets. As per the police version, police intercepted



the car on which the petitioner was sitting on the seat next to the driver and one of the co-accused Sukhpal Singh @ Babbu was driving the car from where 1,25,000 intoxicant tablets of tramadol was recovered. So far as the second car is concerned there was recovery of 1,75,000 tablets of tramadol. He submitted that the petitioner was involved in one more case under the NDPS Act and one case under the Prisons Act and that was the reason he has been falsely implicated in the present case. He further submitted that earlier he filed a bail petition before this Court, the same was dismissed on 04.04.2024 and rather while dismissing the bail petition, considering the custody of the petitioner learned trial court was directed to expedite the trial in view of the long custody of the petitioner but still the trial of the case was not proceeded in a proper manner and therefore, in the present petition, this Court had requisitioned the report from learned trial court with regard to status of the case and perusal of the same would show that even as on today two prosecution witnesses are still pending.

3. Learned counsel has submitted that the aforesaid co-accused namely Sukhpal Singh @ Babbu who was driving the car from where the aforesaid quantity of tramadol tablets was recovered has already been granted the concession of bail by this Court vide order passed in **CRM-M-48052-2024 dated 30.09.2024 (Annexure P-44)** and in the same car the petitioner was also sitting on the seat next to driver. He submitted that the petitioner is not only at parity with the aforesaid co-accused namely Sukhpal Singh @ Babbu but



rather he is at a better footing. He submitted while referring to the aforesaid order passed by this Court that the primary reason for the grant of bail to the aforesaid co-accused was the long custody and the stage of trial and the bail application of the aforesaid co-accused was allowed in view of the judgment passed by Hon'ble Supreme Court in Satender Kumar Antil Vs. Central Bureau of Investigation, another 2022 (10) SCC 51, Mohd. Muslim @ Hussain Vs. State (NCT of Delhi) 2023 AIR (SC) 1648, Dheeraj Kumar Shukla vs. The State of Uttar Pradesh, 2023 SCC Online SC 918 and Rabi Prakash Versus State of Odisha, Special Leave to Appeal (Crl.) No.4169 of 2023. He submitted that even on the ground of parity he deserves the concession of bail apart from the fact that he is in custody for 4 years and 10 months.

4. On the other hand, learned State counsel submitted that so far as the custody of the petitioner is concerned, it is correct that he has faced incarceration for 4 years and 10 months. He further submitted that only two prosecution witnesses are left to be examined. He submitted that the aforesaid co-accused namely Sukhpal Singh @ Babbu who was granted bail by this Court vide order passed in CRM-M-48052-2024 dated 30.09.2024 (Annexure P-44) was the driver of the same car in which the petitioner was sitting next to the driver seat and he was granted bail by this Court in view of the long custody. Therefore, so far as the parity aspect of the same is concerned the same cannot be disputed. He however, has opposed the grant of regular bail to the petitioner on the ground that recovery of 1,25,000



intoxicant tablets of Clovidol 100 SR containing the salt of tramadol is a huge quantity which falls in the category of commercial quantity and therefore, the prayer of the petitioner is hit by the bar contained under Section 37 of the NDPS Act.

5. I have heard the learned counsels for the parties.

6. As per the learned counsel for the parties, the actual custody of the petitioner comes out to be 4 years and 10 months. One of the Co-accused namely Sukhpal Singh @ Babbu has already been granted the concession of bail by this Court vide order passed in CRM-M-48052-2024 dated 30.09.2024 (Annexure P-44). So far as the parity of the petitioner with the aforesaid co-accused is concerned the same cannot be denied because the aforesaid co-accused was driving the same car where the petitioner was apprehended while sitting next to the driver seat. The petitioner is although stated to be involved in two more cases one under the NDPS Act and one under the Prisons Act but this Court is of the considered view that the same cannot become a ground for denial of bail to the petitioner. So far as the bar under Section 37 of the NDPS Act in the present case is concerned when this Court had allowed the bail application of the co-accused namely Sukhpal Singh @ Babbu the same was allowed in view of the judgments passed by the Hon'ble Supreme Court in **Satender Kumar Antil Versus Central Bureau of Investigation and another's case (Supra)**, **Mohd. Muslim @ Hussain (Supra)**, **Dheeraj Kumar Shukla's case (supra)** and **Rabi Prakash Versus State of Odisha (Supra)** and also in the light of Article 21 of the

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Constitution of India considering the long custody of the petitioner. So far as the present petition is concerned, his custody is also very long i.e. 4 years and 10 months.

7. On the last date of hearing, this Court had requisitioned report from learned trial court because when the petitioner had earlier filed a bail petition before this Court, then vide order dated 04.04.2024 this Court had directed learned trial court to expedite the trial in view of the long custody of the petitioner and as per now the report received from learned trial court it has been so stated that out of 14 prosecution witnesses cited by the prosecution, 9 have examined, 3 prosecution witnesses have been given up being unnecessary and 2 prosecution witnesses are still to be examined.

8. After hearing the learned counsel for the parties and considering the stage of trial and long incarceration of the petitioner, which is for 4 years and 10 months and also the parity aspect, this Court is of the considered view that the petitioner deserves the concession of regular bail and the bar of Section 37 of the NDPS will not apply to the petitioner in the light of Article 21 of the Constitution of India and also in view of the aforesaid judgment of Hon'ble Supreme Court of India.

9. Consequently, the present petition is allowed and the petitioner is ordered to be released on regular bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.



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10. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

January 23, 2025
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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable :	No