

CRM-M-7028-2022

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

CRM-M-7028-2022

Date of decision:22.09.2022

Harbans Singh

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. S.S.Maini, Advocate,
for the petitioner.

Mr. IPS Sabharwal, DAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks regular bail in case bearing FIR No. 274 dated 11.10.2020, registered at Police Station Kotbhai, District Sri Muktsar Sahib, under Sections 22(c) and 25 NDPS Act, 1985.

Learned counsel for the petitioner contends that the petitioner was not named in the FIR and rather has been indicted on the disclosure statement of the co-accused, and that the petitioner has been in custody since 18.11.2021. On this premise, learned counsel prays that the petitioner be released on bail.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that recovery of intoxicating tablets effected in the present case, falls under the commercial quantity and in view of the bar contained in Section 37 NDPS Act, the petitioner is not

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entitled for bail. He also submits that out of two more cases registered against him under the NDPS Act, the petitioner has been convicted in one case.

I have heard the learned counsel for the parties.

As per the case of prosecution, co-accused Kuldeep Singh and Gurpyar Singh were apprehended while riding on Aactiva and recovery of 950 tablets of Clovidol-100 SR (batch No.TVD-20183) and 500 tablets of Clovidol-100 SR (batch No.TVD-20184) had been effected from their possession. During investigation, it was found that said Aactiva belonged to the petitioner. There are allegations against the petitioner that he being owner of the said Aactiva had knowingly permitted the co-accused to use it for transportation of intoxicating tablets.

Though the petitioner was not named in the FIR and rather has been indicted on the disclosure statement of the co-accused, yet the fact remains that he has as many as two other cases registered or pending against him, under the NDPS Act, which shows that he has the tendency of committing repeated crime(s) of similar nature.

It is not denied for a moment that the period of custody is a relevant factor, but simultaneously the totality of the circumstances and the criminal antecedents are also to be weighed. Keeping in view the criminal antecedents of the petitioner, the period of custody of more than 10 months, in my considered opinion, melts into insignificance. Still further, having had his complicity in the repeated offence of similar nature, the petitioner cannot seek the concession of regular bail, which of course, if granted would pave a way to him to involve himself in another similar offence.

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As stated by learned State counsel, the extent of intoxicating tablets, allegedly recovered in the present case, falls under the category of 'commercial quantity'. Section 37 NDPS Act bars the grant of bail to the accused in case of 'commercial quantity'.

The Hon'ble Supreme Court, in Criminal Appeal No.1001-1002 of 2022, titled as 'Narcotics Control Bureau Vs. Mohit Aggarwal', decided on 19.07.2022, has held that length of the period of custody of the accused or the fact that the charge-sheet has been filed and the trial has commenced are by themselves not considerations that can be treated as persuasive grounds for granting relief to the accused under Section 37 NDPS Act.

Considering the same, at this stage, no justifiable ground is made out to extend the concession of regular bail to the petitioner.

Consequently, the present petition stands dismissed.

22.09.2022

parveen kumar

**(HARNARESH SINGH GILL)
JUDGE**

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No