

CRM-M-18176-2022

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

CRM-M-18176-2022 (O & M)

Date of decision: 16.08.2022

Yashbir @ Hasbir

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. R.S.Bains, Sr. Advocate with
Ms. Aarushi Garg, Advocate,
for the petitioner.

Mr. Surender Singh, AAG, Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks regular bail in case
FIR No.454 dated 22.09.2020, registered at Police Station Sadar, Sonipat,
under Section 20 NDPS Act, 1985.

Status report dated 15.08.2022, by way of affidavit of the
Additional Superintendent of Police, Sonipat, filed in the Registry, is taken
on record.

As per the prosecution version, the petitioner alongwith co-
accused, namely, Mohit and Sumit, was arrested at the spot and *Ganja*
Patti, weighing 79 kg. and 300 gm. (48 kg. and 200 gm. from the
petitioner, 21 kg. from co-accused Mohit and 10 kg. and 100 gm. from co-
accused Sumit) had been recovered from them.

Learned Senior Counsel for the petitioner contends that the
petitioner has falsely been implicated in the present case; that though the

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extent of recovery of *Ganja Patti*, allegedly effected in the present case, falls under the commercial quantity, yet the fact remains that the petitioner has been in custody since 22.09.2020 and that out of 13 prosecution witnesses, only 06 witnesses have been examined so far. In such circumstances, conclusion of the trial would take a long time. Moreover, the petitioner is not involved in any other case, much less of a similar nature. On this premise, learned Senior Counsel prays for the grant of bail to the petitioner. In support of his contentions, learned Senior Counsel relies upon the orders delivered by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No.5769-2022, titled as 'Nitish Adhikary @ Bapan Vs. State of West Bengal', on 01.08.2022, and Special Leave to Appeal (Crl.) No.4173-2022, titled as 'Shariful Islam @ Sarif Vs. State of West Bengal', on 04.08.2022.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that the aforesaid extent of *Ganja Patti*, recovered in the present case, falls under the commercial quantity and the case of the petitioner is hit by the bar contained under Section 37 NDPS Act. However, he does not dispute the custody period of the petitioner.

I have heard the learned counsel for the parties.

After investigation, challan was filed way back on 16.12.2020 and thereafter, the charges were framed on 05.08.2021. Out of 13 prosecution witnesses, 07 witnesses are yet to be examined and there being no likelihood of completion of trial in the near future. The petitioner has been in custody since 22.09.2020. There is no other case registered or

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pending against the petitioner, at least of a similar nature. All these facts persuade this Court to grant bail to the petitioner despite the rigors of Section 37 NDPS Act in the present case. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

16.08.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No