

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

CRM-M-18399-2021 (O&M)

Date of decision: 16.03.2022

Balwinder Singh @ Balli

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. A.S. Manaise, Advocate for the petitioner.

Mr. Ajay Pal Singh Gill, DAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Through this petition filed under Section 439 Cr.P.C., the petitioner seeks regular bail in case bearing FIR No.70 dated 27.11.2019, registered under Section 21 of the NDPS Act, at Police Station Arif Ke, District Ferozepur, Punjab.

Learned counsel for the petitioner submits that as per the CCTV footage, the petitioner was apprehended from his house and the recovery alleged to be effected from him, is a planted one; that allegedly on the basis of disclosure statement of the petitioner, the recovery of contraband was effected from near the international border in the presence of the BSF personnel; that though the challan was presented on 02.05.2020, yet no prosecution witness has been examined so far; that the petitioner has been in

custody since 27.11.2019 and that there is no other case under NDPS Act registered or pending against him. It is, thus, submitted that by virtue of long incarceration, de-hors the nature of quantity, the petitioner may be released on regular bail.

In support of his case, learned counsel for the petitioner relies upon the judgment of Hon'ble Supreme Court in Chitta Biswas @ Subhas Vs. State of West Bengal(Law Finder Doc Id #1938935); and orders dated 08.12.2021 passed in Sushil Biswas Vs. State of West Bengal and order passed in Petition for Special Leave to Appeal (Crl.) No. 7871/2021 and dated 12.01.2022 passed in Criminal Appeal No. 81 of 2022 - Pradip @ Babu Dinbandhu Bahera Vs. State of Gujarat. He also relies upon the judgment of the Coordinate Bench of this Court in Harinder Singh @ Happy Vs. State of Punjab, 2022(1)Law Herald (P&H) 548.

Learned State counsel, while vehemently opposing the prayer for bail submits that the recovered contraband falls under the commercial quantity. However, he does not dispute the custody period of the petitioner and that there is no other case against the petitioner. He submits that out of 11 prosecution witnesses, none has been examined so far.

I have heard the learned counsel for the parties.

The petitioner has been in custody since 27.11.2019. The prosecution witnesses are yet to be examined. Therefore, the conclusion of the trial would take time. Moreover, there is no other case under NDPS Act against the petitioner and keeping in view the long incarceration, the

petitioner deserves to be enlarged on bail.

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

(HARNARESH SINGH GILL)
JUDGE

16.03.2022

Mangal Singh

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No