

CRM-M-18549-2021

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

CRM-M-18549-2021

Date of decision: 27.04.2022

Jasbir Singh alias Lama

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Vikram Satpal Anand, Advocate,
for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks regular bail in case FIR No.02 dated 01.01.2020, registered at Police Station Jhabal, District Tarn Taran, under Sections 21 and 29 of the NDPS Act and Section 25 of the Arms Act.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that recovery of 263 gram of heroin, marginally above the commercial quantity, had allegedly been effected from the petitioner; that the similarly situated co-accused have been released on regular bail by a Coordinate Bench and this Court; that the petitioner has been in custody since 04.01.2020; that the challan has been presented and that the prosecution witnesses are yet to be examined. So far as other cases registered or pending against the petitioner, are concerned, he stands acquitted in 18 cases. In support of his contentions, he relies

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upon the judgment of the Hon'ble Supreme Court in Maulana Mohd. Amir Rashadi Vs. State of U.P. and another 2012 (1) R.C.R. (Criminal) 586 and judgment passed by a Coordinate Bench in Bikram Singh @ Bikkar and Ors. Vs. State of Punjab and others, 2021 (3) Law Herald 2164.

On the other hand, learned State counsel submits that the recovery effected in the present case falls under the commercial quantity. Moreover, the petitioner is a habitual offender and has more than 30 cases registered or pending against him.

I have heard the learned counsel for the parties.

Indisputably, the extent of recovery of heroin effected from the petitioner, falls under 'commercial quantity'. Section 37 NDPS Act bars the grant of bail to the accused in case of 'commercial quantity'. The argument of the learned counsel for the petitioner to release him on bail due to custodial period, is not worth consideration, in view of the order dated 29.10.2021 of the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No. 5507/2020 – Jamshed Alam @ Jamshere Alams Vs. The State of Jharkhand, wherein the accused was granted bail after custody period of more than 3 years.

Moreover, a perusal of the record would also show that there are as many as 32 cases, including 05 cases of similar nature, registered and/or pending against the petitioner and that out of the aforesaid 04 cases, though he has been acquitted in 01 case, yet convicted in 02 cases and 02 cases are still pending trial. Besides this, he has been convicted in 06 other cases, including the case(s) for the offences under the Arms Act and Section 379 IPC. Thus, the criminal antecedents of the habitual offender(s)

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like the petitioner, which shatter the very tranquility of the collective, do not entitle him to be enlarged on bail. The case law cited by the learned counsel for the petitioner is not applicable to the facts and circumstances of the present case in the light of the recent order dated 29.10.2021 passed by the Hon'ble Supreme Court in Jamshed Alam @ Jams's case (supra).

In view of the above, this Court does not find any merit in the present petition.

Dismissed.

27.04.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No