

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

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**CRM-M-18459-2022
Date of decision: 09.05.2022**

HARBHAJAN SINGH

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Naveen Bawa, Advocate
for the petitioner.

Ms. A. K. Khurana, DAG, Punjab

VINOD S. BHARDWAJ. J. (ORAL)

The third petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 by the petitioner for seeking concession of regular bail in case bearing FIR No. 223 dated 26.08.2013 registered under Sections 15, 18, 22, 27-A, 29 & 30 of the Narcotic and Psychotropic Substances Act, 1985 at Police Station Basti, Jodhewal, District Ludhiana.

2. Learned counsel appearing on behalf of the petitioner *inter alia* submits that the FIR in question was registered against the petitioner along with his co-accused Nitish Kumar and one Jaspal Singh. He contends that after the arrest of the petitioner on 26.08.2013, he was granted concession of regular bail vide this Court vide order dated 25.07.2014 passed in CRM-M-10793 of 2014. He submits that the petitioner thereafter did not join the proceedings before the trial Court and was accordingly declared as Proclaimed Offender in the year 2016. He contends that the co-accused Nitish Kumar however

continued to face the trial and the Judge, Special Court, Ludhiana noticed the inherent discrepancies in the prosecution case including an inexplicable delay of one and half year in sending the samples to the office of the Chemical Examiner as well as missing of the material link evidence along with non-compliance of the mandatory provisions of the NDPS Act. It is submitted that there was also no evidence to show that he had received a sample from the MHC for onward submission with the Chemical Examiner. It is contended that the petitioner was thereafter arrested on 03.06.2021 and has thereafter undergone an actual custody of 11 months and 08 days.

3. Ms. A. K. Khurana, DAG, Punjab submits that the content of the petition does not inspire confidence and that he had absconded himself voluntary after securing bail from the Hon'ble High Court. That there is every possibility of the petitioner fleeing from the process of law yet again. It is however not disputed by the learned State counsel that the co-accused had already been acquitted by the Judge, Special Court, Ludhiana vide judgment dated 16.05.2018 and that the said judgment has attained finality as the same has not been challenged before the higher Court.

4. I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their able assistance.

5. Taking into consideration, the circumstances noticed above as also the period of actual custody undergone by the petitioner after his arrest in the instant case, and the judgment of acquittal of the co-accused, I deem it appropriate to enlarge the petitioner on bail to the

satisfaction of the trial Court.

6. The instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite bail bond/ heavy surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned.

7. The petitioner shall appear before the concerned Police Station for marking his presence on every 2nd and 4th Monday of each month.

8. It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

9. The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

The petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

MAY 09, 2022
vishal sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No