

CRM-M-21705-2022

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

CRM-M-21705-2022

Date of decision: 22.09.2022

Jeevan @ Labha

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- None 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.125 dated 02.06.2020, registered at Police Station Dinanagar, District Gurdaspur, under Sections 21 and 29 NDPS Act, 1985.

It is the case of the petitioner that the petitioner has falsely been implicated in the present case; that the petitioner was granted interim bail, awaiting the FSL report; that after completion of investigation, challan was presented; that the petitioner surrendered before the trial Court on 16.11.2021 and since then, he has been in custody.

On the other learned State counsel, while opposing the grant of bail to the petitioner, submits that recovery of intoxicating capsules 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 entitled for bail.

CRM-M-21705-2022

I have heard the learned State counsel.

As per the case of prosecution, 19000 intoxicating capsules 'RIDLEY', were recovered from the petitioner and the co-accused. Indisputably, the extent of intoxicating capsules, 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 liberal approach in granting bail in cases under the NDPS Act, is uncalled for.

A perusal of the record would show that the petitioner was released on interim bail, awaiting the FSL report. After completion of investigation, challan was presented. However, the petitioner did not turn up before the trial Court and ultimately, proclamation proceedings had been initiated against him. The petitioner had evaded the process of law and, therefore, his conduct is not above board.

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.

Moreover, as stated in para 9 of the petition, the petitioner is also facing trial in three other cases, registered under the NDPS Act. It also shows that the petitioner has the tendency of committing repeated crime(s) of similar nature.

CRM-M-21705-2022

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 01 year, 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.

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