

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

CRM-M-21447-2020
Date of decision: 20.05.2022

Ritesh Gurang

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Parveen Chauhan, Advocate,
for the petitioner.

Mr. Harbir Sandhu, AAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks regular bail in case bearing FIR No.50 dated 23.04.2019, registered at Police Station Kot Ise Khan, District Moga, under Section 21 NDPS Act.

In compliance of the order dated 31.03.2022, the trial Court has submitted the requisite report.

Learned counsel for the petitioner contends that as per the prosecution version, the petitioner was carrying the heroin, which was meant to be delivered to co-accused, Balwant Singh @ Gupta; that the aforesaid co-accused has already been released on anticipatory bail by this Court, vide order dated 16.01.2020 (Annexure P-2), and that the mandatory provisions of Sections 42-A and 50 NDPS Act were not complied with by the police.

Learned counsel for the petitioner further contends that though recovery of heroin allegedly effected from the petitioner, falls under the commercial quantity, yet the fact remains that the petitioner has been in custody since 23.04.2019 and 05 prosecution witnesses are yet to be examined. The conclusion of the trial would take a long time. Moreover, there is no other case registered or pending against the petitioner, at least of a similar nature. On this premise, the learned counsel prays for the grant of bail to the petitioner. In support of his contentions, the learned counsel relies upon the orders delivered by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No.5507/2020, titled as 'Jamshed Alam @ Jamsher Alams Vs. State of Jharkhand', decided on 29.10.2021 and Special Leave to Appeal (Crl.) No.7871/2021, titled as 'Sushil Biswas Vs. State of West Bengal', decided on 08.12.2021.

On the other hand, learned State counsel, while opposing the prayer for the grant of bail to the petitioner, submits that the petitioner was apprehended alongwith 1.5 kg heroin, which was meant to be delivered to the aforesaid co-accused, and that the aforesaid extent of heroin recovered from the petitioner, falls under the commercial quantity. However, he submits that the petitioner is not involved in any other case, at least of a similar nature.

I have heard the learned counsel for the parties.

The petitioner has been in custody since 23.04.2019. As many as 05 prosecution witnesses are yet to be examined. There are no past criminal antecedents of the petitioner. 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.

However, it is made clear that in case, the petitioner is found indulged in any other case under the NDPS Act, the prosecution would be at liberty to seek cancellation of his bail in this case.

20.05.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No