

CRM-M-32696-2022

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

CRM-M-32696-2022

Date of decision:22.09.2022

Lucky Singh

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Balwinder Singh Chahal, Advocate for
Mr. Jasvir Singh Dhaliwal, Advocate,
for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks regular bail in case bearing FIR No.288 dated 19.11.2020, registered at Police Station Sardulgarh, District Mansa, under Sections 22, 25 and 29 NDPS Act.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case; that provisions of Section 50 NDPS had not been complied with at the time of the alleged recovery; that the petitioner has been in custody since 19.11.2020 and that there is no likelihood of completion of trial in the near future. On this premise, learned counsel prays that the petitioner be released on regular bail.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that recovery of intoxicating capsules, effected from the petitioner, falls under the category of 'commercial quantity' and Section 37 NDPS Act bars the grant of bail to the

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accused in case of 'commercial quantity'. Moreover, the petitioner being a habitual offender is not entitled for bail.

I have heard the learned counsel for the parties.

As per the case of prosecution, recovery of 1200 intoxicating capsules had been effected from the petitioner. 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.

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, the petitioner is also involved in another case of similar nature. It also shows that he has the tendency of committing repeated crime(s) of similar nature. 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 and 10 months, 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

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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