

CRM-M-46905-2021

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

CRM-M-46905-2021

Date of decision: 15.12.2022

NIZAMMUDIN MOOSA KARA

...Petitioner

Versus

NARCOTIC CONTROL BUREAU

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. D.D.Sharma, Advocate,
for the petitioner.

Mr. Rajiv Sharma, Advocate,
for the respondent.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks regular bail in case bearing Crime No.14 dated 26.02.2020, registered under Sections 8, 20, 23 (C), 27-A, 28, 29 and 60 NDPS Act, at Narcotics Control Bureau, Chandigarh.

Learned counsel for the petitioner contends that there are seven accused in the present case; that the complaint was registered at the behest of Intelligence Officer; that at the time of the alleged recovery, the petitioner was behind bars in some other case, but now has been released on bail, as would decipher from the order dated 07.09.2020 passed by learned Special Judge, under the NDPS Act, Greater Mumbai, and that no recovery had been effected from the petitioner.

Learned counsel further contends that co-accused, Ved Ram from whom recovery of drug money was effected, has since been granted

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the concession of regular bail, vide order dated 28.09.2022 passed by this Court in CRM-M-53853-2021; that the petitioner has been in custody since 14.10.2020, and that a number of prosecution witnesses are yet to be examined.

In support of his contentions, learned counsel for the petitioner relies upon the judgments passed by the Hon'ble Apex Court in Special Leave to Appeal No.4173/2022 titled as Shariful Islam @ Sarif vs State of West Bengal, decided on 04.08.2022; Special Leave to Appeal (Crl.) No.5769/2022 titled as Nitish Adhikary @ Bapan vs State of West Bengal, decided on 01.08.2022; the Coordinate Benches of this Court in CRM-M-30429-2018, titled as Khushal Singh @ Khushali Vs. State of Punjab, decided on 08.10.2018 and CRM-M-43988-2019 titled as Budhi Prakash vs Union of India, NCB Chandigarh, decided on 20.01.2020, and this Court in CRM-M-44759-2019, titled as Singara Singh Vs. State of Haryana, decided on 17.12.2019.

On the other hand, learned counsel for the respondent-NCB, while opposing the grant of bail to the petitioner, submits that the petitioner had been abetting and financing the trafficking of *Charas*; that the petitioner had exported *Charas* to Qatar through Oniba and her husband Mohd. Shareek Qureshi without their knowledge; that co-accused Shahnawaj Gulam Choratwala and Shabana Sheikh had received *Charas* weighing 1.474 kg. at the instance of the petitioner; that recovery of contraband effected in the present case, falls under the category of 'commercial quantity', and that two co-accused are still absconding. However, he does not dispute the custody period of the petitioner.

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I have heard the learned counsel for the parties.

Indisputably, the petitioner was in custody in some other case at the time of recovery of the contraband. No recovery whatsoever had been effected from the petitioner. So far as another case registered against the petitioner is concerned, he has been released on bail therein.

The petitioner has been in custody since for the last two years and two months. Out of 32 prosecution witnesses, six witnesses have been examined so far. Trial is unlikely to conclude any time soon. As stated above, co-accused, namely, Ved Ram has since been granted the concession of regular bail. 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.

15.12.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No