

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

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CRM-M-49843-2021 (O&M)

Date of Decision: 26.04.2022

SUNIL KUMAR

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. GS Randhawa, Advocate for the petitioner.

Mr. Harbir Sandhu, AAG Punjab.

HARNARESH SINGH GILL, J.(Oral)

With no objection from the earlier counsel, Mr. GS Randhawa, Advocate has filed a fresh power of attorney on behalf of the petitioner, in the Court. The same is taken on record.

Through this 2nd petition, the petitioner seeks regular bail in case bearing FIR No.128 dated 25.07.2018, registered under Section 22 of the NDPS Act, 1985, at Police Station City Phagwara, District Kapurthala.

Status report by way of an affidavit dated 28.01/03.02.2022 of the Deputy Superintendent of Police, Sub-Division, Phagwara, District Kapurthala, filed on behalf of the respondent-State, in the Registry, is taken on record.

Learned counsel for the petitioner submits that the petitioner has falsely been involved in the present case; that the the petitioner was driving the motorcycle and the co-accused was the pillion rider and that the polythene bag, from which the alleged recovery was effected, was

thrown by the pillion rider. Thus, the petitioner cannot be said to be in

possession of the alleged contraband. He further submits that, though the alleged recovery was a commercial quantity, yet the fact remains that the same was effected from the co-accused and that the petitioner has been in custody for the last more than 2 years and 10 months. Still further, it is submitted that there is no other case registered and/or pending against the petitioner.

Pre contra, while opposing the prayer for grant of regular bail to the petitioner, learned State counsel, does not dispute the custody period of the petitioner. He, however, submits that the recovery of a commercial quantity was effected from the petitioner and his co-accused. He further submits that prosecution evidence is yet to commence.

I have heard the learned counsel for the parties.

The petitioner has been in custody for the last more than 2 years and 10 months. There is no other case registered and/or pending against the petitioner. Prosecution evidence is yet to commence. In such circumstances, the trial of the case would take a long time to conclude. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above and without commenting anything on the merits of the case, lest it should prejudice the case of both the sides, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

26.04.2022

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

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