

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

221

**CRM-M-51039-2021 (O&M)
Date of Decision: 18.08.2022**

KALA @ BHUNDI

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Ashok Giri, 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.96 dated 18.10.2020, under Section 21 of the NDPS Act, registered at Police Station City Kurali, District SAS Nagar Mohali.

Status report by way of an affidavit dated 16.08.2022 of the Deputy Superintendent of Police, Sub-Division Kharar-II, District SAS Nagar Mohali, filed on behalf of the respondent-State, in the Court, is taken on record.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that though the alleged recovery effected in the present case, is marginally above the commercial quantity, yet the fact remains that the petitioner has been in custody since 18.10.2020 and that most of the prosecution witnesses are yet to be examined. In such circumstances, conclusion of the trial would

take a long time. Moreover, the petitioner is not involved in any other case, much less of a similar nature.

In support of his contentions, learned counsel for the petitioner relies upon the orders delivered by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No.5769-2022, titled as 'Nitish Adhikary @ Bapan Vs. State of West Bengal', on 01.08.2022, and Special Leave to Appeal (Crl.) No.4173-2022, titled as 'Shariful Islam @ Sarif Vs. State of West Bengal', on 04.08.2022.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that the contraband recovered in the present case, falls under the commercial quantity and the case of the petitioner is hit by the bar contained under Section 37 NDPS Act. However, he does not dispute the custody period of the petitioner.

I have heard the learned counsel for the parties.

After investigation, challan was filed and thereafter, the charges were framed. Out of 10 prosecution witnesses, 06 witnesses are yet to be examined and there being no likelihood of completion of trial in the near future. The petitioner has been in custody since 18.10.2020. There is no other case registered or pending against the petitioner, at least of a similar nature. 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.

18.08.2022

Aman Jain

Whether speaking/reasoned

Whether reportable

(HARNARESH SINGH GILL)

JUDGE

:

:

Yes/No

Yes/No