

CRM-M-13561-2023

2023:PHHC:054918
-1-

(280) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-13561-2023
Date of Decision: 18.04.2023

MANDEEP KUMAR

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Dinesh Ghai, Advocate with
for the petitioner.

Ms. Ramta K. Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J.

This 2nd petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.0082 dated 09.04.2021 registered under Section 22(c) of NDPS Act, 1985 at Police Station Sri Muktsar Sahib, District Sri Muktsar Sahib.

2. The brief facts of the case are that while the police party was on patrolling duty, they saw a Swift D'zire car bearing No.PB-30-T-7591 being driven by a cut hair person. The said car was stopped on suspicion and on asking, the driver disclosed his name as Mandeep Kumar (petitioner) son of Satpal and the person accompanying him told his name as Pargat Singh. The search of the vehicle revealed 23,400 tablets of Lomotil.

Based on the said allegation, the instant FIR came to be registered.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The mandatory provisions of

search and seizure have not been complied with. As the the petitioner was in custody since 09.04.2021 and was a first-time offender, he was entitled to the concession of regular bail keeping in view the judgment of the Hon'ble Supreme Court in the case of **Nitish Adhikary @ Bapan Versus The State of West Bengal, SLP (Crl.) Nos.5769/2022 arising out of judgment and order dated 04.05.2022 in CRM(NDPS) No.442/2022, decided on 01.08.2022** and followed by this Court in the case of **Balraj Singh Versus State of Punjab, CRM-M-57386-2022, decided on 14.12.2022.**

4. On the other hand, the learned State counsel contends that commercial quantity of contraband has been recovered from the petitioner. In view of the bar contained under Section 37 of the NDPS Act, the petitioner was not entitled to the grant of regular bail. He, however, does not dispute the custody period undergone by the petitioner as also the fact that the petitioner is a first-time offender.

5. I have heard the learned counsel for the parties.

6. The Hon'ble Supreme Court in the case of **Nitish Adhikary @ Bapan Vs. The State of West Bengal SLP (Crl.) Nos.5769/2022 Decided on 01.08.2022** held as under:-

“As per the office report dated 29.07.2022, copy of the show cause notice along with Special Leave Petition was supplied to the Standing Counsel for the State of West Bengal and separate notice has been served on the State also. However, no one has entered appearance on their behalf.

The petitioner seeks enlargement on bail in F.I.R. No. 612 of 2020 dated 17.10.2020 filed under Section 21(c) and 37 of the NDPS 2 Act, registered at Police Station Bongaon, West Bengal.

During the course of the hearing, we are informed that the petitioner has undergone custody for a period of 01 year and 07 months as on 09.06.2022. The trial is at a preliminary stage, as only one witness has been examined. The petitioner does not have any criminal antecedents.

Taking into consideration the period of sentence undergone by the petitioner and all the attending circumstances but without expressing any views in the merits of the case, we are inclined to grant bail to the petitioner.

The petitioner is accordingly, directed to be released on bail subject to him furnishing bail bonds to the satisfaction of the Trial Court.

The Special Leave Petition is disposed of on the aforestated terms.

Pending application(s), if any, shall stand disposed of.”

This Court in the case of **Balraj Singh Versus State of Punjab, CRM-M-57386-2022, decided on 14.12.2022** has followed the dictum laid down by the Hon'ble Supreme Court and granted bail to the petitioner therein after he had undergone total custody of 01 year and 06 months.

7. In the present case, the petitioner is a first-time offender. He is stated to be in custody since 09.04.2021 and only 02 out of the 16 prosecution witnesses have been examined so far. As such, his further incarceration is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Mandeep Kumar son of Satpal is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in

writing each time that he is not involved in any other crime other than the present case.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

18.04.2023
JITESH

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