

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-1860-2023

Date of Decision:-18.01.2023

Jagga Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Arjun Veer Sharma, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J. (ORAL)

The Prayer in this second petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.215 dated 11.07.2020 under Sections 15, 29 (Added later on) registered at Police Station Patran, Patiala.

2. The brief facts of the case are that while the police party was on patrolling duty secret information was received that Jagga Singh (petitioner) Jagtar Singh @ Maana, Bhagwan Singh son of Budh Singh, Budh Singh son of Bhajan Singh, Satgur Singh son of Budh Singh and Takha Singh son of Shingara Singh altogether indulged in the business of Poppy Husk. They had purchased one house in PUDA Colony, Patran where they had kept a huge quantity of Poppy Husk. Jagga Singh was present in the house and if a raid was conducted he could be apprehended.

Based on the said information, Jagga Singh was arrested

whereas the other accused were not found at the spot. 10 Quintals 40 Kgs of Poppy Husk was recovered. During the course of interrogation Jagga Singh disclosed the names of the other accused.

3. The Counsel for the petitioner contends that there is non compliance of Section 42 of the NDPS Act. The petitioner has suffered a paralytic attack in Central Jail, Patiala and is on regular medicine. For better treatment he ought to be granted the concession of bail. Even otherwise, he had been in custody for the last more than 02 years and 06 months and since none of the 23 prosecution witnesses had been examined and no other case under the NDPS Act stood registered against him, he was entitled to the grant of bail. Reliance is placed on the judgment of the Hon'ble Supreme Court in ***Nitish Adhikary @ Bapan Vs. 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.***

4. The Counsel for the State on the other hand contends that the petitioner is the main accused and was arrested at the spot. A huge quantity of contraband has been recovered and as such he is not entitled to the grant of bail in view of the Section 37 of the NDPS Act. He however, does not dispute the period of custody undergone by the petitioner as also the fact that none of 23 witnesses have been examined so far.

5. I have heard learned Counsel for the parties.

6. The Hon'ble Supreme Court in ***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.”

The aforementioned decision has been followed by this Court in the case of ***Balraj Singh Vs. State of Punjab CRM-M-57386-2022 Decided on 14.12.2022.***

7. In the present case the petitioner is in custody for almost 02 years and 06 months. He is a first time offender. None of the 23 prosecution witnesses have been examined so far. As such the Trial of the present case is not likely to be concluded any time soon. In such a situation the provisions of Section 37 can be diluted to the extent in view of Article 21 of the Constitution of India which provided for the right to a speedy Trial.

8. Thus, without commenting on the merits of the case, the petitioner-**Jagga Singh** son of Sh. Budh Singh is ordered to be released on

bail subject to the satisfaction of learned CJM/Duty Magistrate, concerned.

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

In addition, the petitioner (or any person on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited in accordance with law in case of the absence of the petitioner from the Trial without sufficient cause.

Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

January 18, 2023
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>