

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

201

CRM-M-3633-2021 (O&M)

Date of Decision: 08.02.2023

SOMBEER

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Shikhar Kataria, Advocate for
Mr. Harsh Chopra, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG Haryana.

HARNARESH SINGH GILL, J.(Oral)

Prayer in this second petition is for grant of regular bail in case bearing FIR No.303 dated 13.04.2019, registered under Sections 20 and 61 of the NDPS Act, at Police Station Nuh, District Nuh, the first one having been dismissed as withdrawn on 10.02.2020.

Learned counsel appearing for the petitioner submits that, as per the prosecution version, three persons were intercepted in a car, which was being driven by co-accused, namely, Rakesh and co-accused, namely, Anil, was sitting on the passenger seat; that the petitioner was sitting on the back seat of the car; that the alleged recovery of 40 kilogram Charas was effected from the boot of the car and that the petitioner has been in custody since 13.04.2019. He further submits that the petitioner belongs to the Village Dhanonda Khurd, District Jind, whereas the other two co-accused are from the Village Khadkhada, District Hisar and thus, he has no concern with the co-accused. Still further, it is submitted that there are material discrepancies in the present

case and that, though, the petitioner was arrested by ASI Umar Mohammad, yet the fact remains that the arrest memo has not been signed.

Learned counsel appearing for the petitioner further submits that the alleged recovery was not effected from the conscious possession of the petitioner and that there is a delay of 37 days in sending the sample to the chemical examiner. He further submits that there is no other case registered and/or pending against the petitioner.

Per 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. She, however, submits that the recovered contraband falls under the commercial quantity and Section 37 of the NDPS Act bars the grant of bail to the accused in the case of a commercial quantity. She further submits that all the prosecution witnesses have already been examined and the trial is at its fag end.

I have heard the learned counsel for the parties.

As noticed above, the recovery effected in the present case falls under the commercial quantity and Section 37 of the NDPS Act bars the grant of bail to the accused in the case of a commercial quantity. Above all, all the prosecution witnesses have already been examined and the trial is at its fag end. Thus, no ground is made out to grant the concession of regular bail to the petitioner.

Dismissed.

08.02.2023

Aman Jain

(HARNARESH SINGH GILL)

JUDGE