

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

216-A

CRM-M-3592-2023 (O&M)

Date of Decision: 21.07.2023

MILAN

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. PS Sekhon, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG Haryana.

HARNARESH SINGH GILL, J.(Oral)

Through this petition, the petitioner seeks regular bail in case bearing FIR No.3 dated 05.01.2021, registered under Section 20(B)(ii)(C) of the NDPS Act, at Police Station Sadar Rewari, District Rewari.

Learned counsel for the petitioner submits that the petitioner was not named in the FIR; that neither the petitioner was apprehended at the spot nor any recovery was effected from him; that on the basis of the disclosure statement of co-accused, namely, Karambir, the petitioner along with one Pardeep have been indicted in the present case and that the petitioner has been in custody since 11.02.2022. He further submits that in another FIR bearing No.7 dated 04.01.2021, under the NDPS Act, the petitioner has been indicted on the basis of the disclosure statement of co-accused, Karambir and in that case also, no recovery was effected from the petitioner. Still further, it is submitted that the recovery effected in both the FIRs, on the basis of the disclosure statement of Karambir, is a part of the present case only and that the prosecution witnesses are yet to be examined.

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 recovery effected in the present case is a commercial quantity and Section 37 of the NDPS Act bars the grant of bail to the accused persons involved in a commercial quantity case. She further submits that the petitioner is a habitual offender and facing one more case under the NDPS Act and that material witnesses are yet to be examined and thus, the petitioner be not granted the concession of regular bail.

I have heard the learned counsel for the parties.

The petitioner has been in custody since 11.02.2022. No recovery was effected from the conscious possession of the petitioner. The petitioner was indicted on the basis of the disclosure statement of the co-accused. As per the learned counsel for the petitioner, recovery qua which FIR No.7 dated 04.01.2021 was registered, is a part of the present case only. Most of the prosecution witnesses are yet to be examined. 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 either side, 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.

21.07.2023

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*