

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

210

CRM-M-4792-2023 (O&M)

Date of Decision: 12.04.2023

KARAMJIT SINGH @ KAMMU

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Gurpal Singh Sandhu, Advocate
for the petitioner.

Ms. Ishma Randhawa, Additional AG Punjab.

HARNARESH SINGH GILL, J.(Oral)

Through this third petition, the petitioner seeks regular bail in case bearing FIR No.28 dated 04.03.2021, registered under Section 22 (c) of the NDPS Act and Section 29 of the NDPS Act (added later on), at Police Station Bajakhana, District Faridkot, the earlier two petitions having been dismissed as withdrawn on 21.07.2022 and 24.11.2022.

Status report by way of an affidavit dated 09.03.2023 of the Deputy Superintendent of Police, Sub-Division Jaitu, District Faridkot, filed on behalf of the respondent-State, in the Court, is taken on record. Copy thereof has been supplied to the learned counsel opposite.

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, falls under the commercial quantity, yet the fact remains that the petitioner has been in custody since 04.03.2021 and that out of total 14 prosecution witnesses, only one has

been examined so far. He further submits that the petitioner is not involved in any other case, much less of a similar nature and that in the FIR, it has been mentioned that the alleged recovery was effected from the right hand of accused Kulwant Singh @ Kanta, whereas only the petitioner was arrested at the spot and the other co-accused was indicted on the basis of disclosure statement of the petitioner.

In support of his contentions, learned counsel for the petitioner relies upon the orders passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No.6690/2022, titled as 'Dheeraj Kumar Shukla vs The State of Uttar Pradesh', on 30.05.2022, Special Leave to Appeal (Crl.) No.5769-2022, titled as 'Nitish Adhikary @ Bapan Vs. State of West Bengal', on 01.08.2022, and Criminal Appeal No.1570 of 2021, titled as 'Mahmood Kurdeya vs Narcotics Control Bureau', on 07.12.2021.

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, she does not dispute the custody period of the petitioner. She further submits that the material witnesses are yet to be examined.

I have heard the learned counsel for the parties.

After investigation, challan was filed and thereafter, the charges were framed. Thirteen prosecution witnesses are yet to be examined and there is no likelihood of completion of trial any time soon.

This Court is conscious of the fact that the recovery effected in the present case falls under the commercial quantity, but the fact remains that the petitioner has been in custody since 04.03.2021. 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.

12.04.2023

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

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