

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

223

CRM-M-5098-2023 (O&M)  
Date of decision: 27.07.2023

RAMTEJ SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

**CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: Mr. B.D. Sharma, Advocate for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG Punjab.

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**HARNARESH SINGH GILL, J. (ORAL)**

The petitioner has filed this second petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.04 dated 23.01.2020, registered under Section 15 read with Section 29 of the NDPS Act, at Police Station Division No.1, District Jalandhar. The earlier petitioner was dismissed on merits on 01.04.2021.

Reply filed on behalf of the respondent-State is already on record.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case; that though the alleged recovery of poppy husk effected in the present case falls under the commercial quantity but the fact remains that that the petitioner was arrested on 02.08.2020 after more than 07 months of registration of the FIR and since then he has been in custody i.e. for the last more than 02 years and 11 months; that the owner of the truck, wherein the alleged recovery was effected has been exonerated and

the co-accused Jatinder Kumar has already been granted regular bail vide order dated 09.07.2021 passed by this Court; that there is no other registered or pending case against the petitioner that out of 31 prosecution witnesses, only 04 have been examined so far.

In support of his case, learned counsel for the petitioner relies upon the order 04.05.2023, passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No(s).3221/2023, titled as 'Hasanujjaman & Ors Vs. The State of West Bengal'.

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 and the fact that there is no other case pending or registered against the petitioner, at least of a similar nature. He, however, submits that the recovery effected in the present case falls under the commercial quantity and that Section 37 of the NDPS Act bars the grant of bail to the accused in case of commercial quantity. He further submits that the material witnesses are yet to be examined.

I have heard the learned counsel for the parties.

Though the recovered contraband in the present case, falls under the commercial quantity, yet the fact remains that the petitioner has been in custody for the last more than 02 year and 11 months and that remaining 27 prosecution witnesses are yet to be examined. Co-accused Jatinder Kumar has already been granted regular bail vide order dated 09.07.2021 passed by this Court. There is no other case registered or pending against the petitioner, at least of a similar nature. In such circumstances, 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, without commenting anything on the merits, lest it should prejudice the case of either side, the petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

(HARNARESH SINGH GILL)  
JUDGE

27.07.2023  
Mangal Singh

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|----------------------------|--------|
| Whether reasoned/speaking? | Yes/No |
| Whether reportable?        | Yes/No |