

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

CRM-M-6873-2023

Date of Decision:-22.02.2023

Saurav Abrol.

.....**Petitioner.**

Versus

State of Punjab.

.....**Respondents.**

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

Present:- Ms. Rashika Bansal, Advocate for
Mr. Dheeraj Mahajan, Advocate for the Petitioner.

Ms. Navreet Kaur Barnala, Assistant Advocate General,
Punjab.

JASJIT SINGH BEDI, J. (ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.157 dated 21.09.2019 under Sections 21, 22 of the NDPS Act registered at Police Station City Gurdaspur, District Gurdaspur.

2. The brief facts of the case are that while the police party was on patrolling duty one motor cycle bearing registration number PB-06R-5292 Hero Honda came at the spot. Two persons were riding on the same. One green colour plastic packet was kept in their possession. When they were asked to stop they tried to turn their motor cycle and flee away. However, they were apprehended. The petitioner disclosed his name as Saurav Abrol and the pillion rider as Navdeep Singh. The search of the packet revealed

that it was containing intoxicant capsules of green colour totalling 50000, ALPAM-0.5 intoxicant tablets totalling 300 and 400 strips intoxicant tablets of Tramadol Hydrochloride.

Based on the information and the subsequent recovery the FIR came to be registered.

3. The Counsel for the petitioner contends that he is in custody since 21.09.2019. In fact his mother Anita Abrol had filed CRM-M-54984-2019 against the police officials who had falsely implicated her son the present petitioner, in the instant case. CCTV footage of the alleged place of recovery would show that the occurrence had not taken place in the manner as suggested by the prosecution. In fact no recovery of contraband was effected from the petitioner. Since only 02 out of 25 prosecution witnesses had been examined so far and the trial had been ordered to be stayed by this Court, the further incarceration of the petitioner was not required as he had clean antecedents and was a first time offender.

4. The learned State counsel on the other hand has admitted the aforementioned factual position. He however contends that a huge recovery of contraband was allegedly effected from the petitioner and, therefore, he was not entitled to the grant of bail.

5. I have heard the 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 aforesaid 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. Admittedly, the mother of the petitioner has filed a petition bearing CRM-M-54984-2019 seeking issuance of directions for proper investigation. The proceedings before the Trial Court stand stayed by an order of this Court because of which no prosecution witness has been examined after the initial examination of two witnesses. Because of the said interim order, the Trial of the present case is not likely to be concluded anytime soon. Even otherwise, the petitioner is a first time offender and has undergone more than 03 years of actual custody. Therefore, his further incarceration is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Saurav Abrol** son of Sh. Kamal

Kumar is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. 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 each time that he is not involved in any other crime other than the present one.

9. In addition, the petitioner (or anyone 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 as per law in case of the absence of the petitioner from trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

February 22, 2023
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No