

2023:PHHC:067311

IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH

213

CRM-M-7507-2023 (O&M)

Date of Decision: 10.05.2023

RAJNI

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Gaurav Dutta, Advocate
for the petitioner.

Mr. Kunal Muthreja, AAG Punjab.

HARNARESH SINGH GILL, J.(Oral)

Through this third petition, the petitioner seeks regular bail in case bearing FIR No.46 dated 14.07.2021, registered at Police Station Aur, district SBS Nagar, under Section 22 of the NDPS Act.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case; that there is a complete non-compliance of Sections 50 and 41(2) of the NDPS Act; that the initial search was conducted by Head Constable and thereafter, the search was conducted by an official of the rank of Assistant Superintendent of Police (ASI); that the recovery was effected from a transparent polythene bag and that the petitioner has been in custody since 14.07.2021. He further submits that the earlier two bail petitions were dismissed as withdrawn on 26.07.2022 and 10.10.2022, respectively.

In support of his contentions, learned counsel for the petitioner relies upon the judgments dated 28.03.2023 and 27.04.2018 passed by the Hon'ble Apex Court in Criminal Appeal No. of 2023 (Special Leave Petition (Crl.) No.915-2023) titled as Mohd. Muslim @ Hussain vs State (NCT of Delhi) and Criminal Appeal No.273-2007 titled as Arif Khan @ Agha Khan vs State of Uttarakhand, (2018) 18 Supreme Court Cases 380.

On the other hand, learned State counsel submits, while opposing the grant of regular bail to the petitioner, submits that the contraband i.e. 15 unlabeled intoxicant injections along with 15 injections of Avil were recovered from the petitioner. He further submits that the petitioner is involved in FIR No.52 dated 12.08.2019, Police Station Aur, District Nawanshahar, SBS Nagar, under Section 22 of the NDPS Act. He further submits that the recovery effected in the present case, falls under the commercial quantity.

In support of his contentions, learned State counsel relies upon the judgment rendered by the Hon'ble Supreme Court in Criminal Appeal Nos.1001-1002 of 2022, titled as Narcotics Control Bureau vs Mohit Aggarwal, decided on 19.07.2022.

I have heard the learned counsel for the parties.

The extent of contraband 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 case of commercial quantity. Moreover, the involvement of the petitioner in another case of similar nature, shows that

he has the tendency of committing repeated crime(s). Thus, having had his complicity in the repeated offence of similar nature, he cannot seek the concession of regular bail, which of course, if granted would pave a way to him to involve himself in another similar offence.

In view of the above, no ground is made out to grant the concession of regular bail to the petitioner.

Dismissed.

10.05.2023

Aman Jain

Whether speaking/reasoned

Whether reportable

(HARNARESH SINGH GILL)

JUDGE

:

:

Yes/No

Yes/No