

CRM-M-8202-2023

::1::

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-8202-2023 (O & M)****Date of decision: 30.05.2023**

Sandeep Singh

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. J.S. Dhaliwal, Advocate,
for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.148 dated 22.05.2021 under Sections 22, 61 and 85 of the NDPS Act registered at Police Station Sadar Mansa, District Mansa, Punjab.

2. The brief facts of the case are that while the police party was on checking duty for suspected persons and had set-up a *nakabandi* at the Canal Bridge of Village Bhaini Bagha, then one shorn-haired person was seen coming on a motorcycle bearing registration No.PB-44 B-8901 make Passion Pro of black and blue colour from the side of Burj Hari. He had kept a plastic bag of black colour on the tank of the motorcycle. When he was asked to stop, he got perplexed and tried to turn back, but he was apprehended and the search of his bag revealed 300 strips of intoxicant tablets i.e. each strip containing 10/10 intoxicant tablets i.e. total 3000

CRM-M-8202-2023

::2::

intoxicant tablets make Celcidal-100 SR (Tramadol Hydrochloride) having batch No.21-B-T137, MFG May 2021, Ex. April 2023 belonging to company PP Pharma-A-1, Park Plaza (E), Mumbai, leading to the registration of the present FIR.

3. The learned counsel for the petitioner contends that he had been falsely implicated in the present case. The mandatory provisions of search and seizure under the NDPS Act had not been complied with. As the petitioner was in custody since 22.05.2021 and only a few of the 10 prosecution witnesses had been examined so far, he was entitled to the concession of bail. Reliance is placed on the judgment of the Hon'ble Supreme Court in **'Nitish Adhikary @ Bapan versus The State of West Bengal, SLP (Crl.) Nos. 5769/2022 arising out of judgment and order dated 04.05.2022 in CRM (NDPS) No.442-2022 decided on 01.08.2022** and followed by this Court in the case of **'Balraj Singh versus State of Punjab (CRM-M-57386-2022 decided on 14.12.2022)'**.

4. The learned counsel for the State, on the other hand, contends that commercial quantity of the contraband had been recovered from the petitioner. Therefore, the petitioner was not entitled to the grant of concession of bail in view of the bar contained under Section 37 of the NDPS Act. He, however, concedes that the petitioner is in custody since 22.05.2021, was a first-time offender and some of the prosecution witnesses still remain to be examined.

5. I have heard the learned counsel for the parties.

6. The Hon'ble Supreme Court in the case of **Nitish Adhikary @ Bapan Vs. The State of West Bengal SLP (Crl.) Nos.5769/2022 Decided on**

“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.”

This Court in the case of **Balraj Singh Versus State of Punjab,**

CRM-M-57386-2022, decided on 14.12.2022 has followed the dictum laid down by the Hon'ble Supreme Court and granted bail to the petitioner therein after he had undergone total custody of 01 year and 06 months.

7. In the instant case, the FIR pertains to 22.05.2021. The petitioner is stated to be in custody since that date. Some of the prosecution

CRM-M-8202-2023

::4::

offender. In this view of the matter, the rigors of Section 37 of the NDPS Act can be relaxed to an extent in view of the salutary provisions under Article 21 of the Constitution of India which provides for the right to a speedy Trial and the case of the petitioner can be considered for the grant of concession of bail.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner-Sandeep Singh is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any case/crime other than the present one.

10. In addition, the petitioner (or someone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- 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.

(JASJIT SINGH BEDI)
JUDGE

May 30, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No