

(222) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-9934-2023
Date of Decision: 01.03.2023

PARDEEP KUMAR @ TEENU

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Abhishek Sharma, Advocate for
Mr. Lekh Raj Sharma, Advocate
for the petitioner.

Mr. Shubham Kaushik, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

This 2nd petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.153 dated 10.09.2020 registered under Sections 22 and 29 of NDPS Act, 1985 at Police Station City Budhlada, District Mansa.

2. The brief facts of the case are that while the police party was on patrolling duty, secret information was received that Pardeep Kumar alias Teenu (petitioner) was indulging in the business of selling intoxicating tablets from his home. If an immediate raid was conducted at his house intoxicating tablets could be recovered.

Based on the said information, the present FIR came to be registered and pursuant thereto, the recovery of 820 tablets of Cloridol, 90 capsules of Regatic and 340 tablets of Etizolam came to be effected.

3. The learned counsel for the petitioner contends that the recovery has been planted upon the petitioner. There is a non-compliance of Sections

42 and 50 of the NDPS. No private witness was joined from the locality before conducting the raid on the house of the petitioner. Since the petitioner was in custody since 10.09.2020 and only 03 out of the 15 prosecution witnesses had been examined so far, he was entitled to the concession of regular bail keeping in view the judgment of the Hon'ble Supreme Court in the case of **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. On the other hand, the learned State counsel contends that commercial quantity of contraband has been recovered from the petitioner. The nature of allegations levelled against the petitioner do not entitle him to the grant of regular bail. He, however, does not dispute the custody period undergone by the petitioner as also the stage of Trial.

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 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 aforestated 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 present case, the allegations against the petitioner shall be substantiated during the course of Trial. He has undergone a total custody period of 02 years and 06 months. Only 03 out of the 15 prosecution witnesses have been examined so far. In the one other case registered against the petitioner, he stands acquitted. Therefore, the further incarceration of the petitioner is not required and the provisions of Section 37 of the NDPS Act can be diluted to an extent in the facts and circumstances of the present case.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Pardeep Kumar @ Teenu son of Jiwan Parkash 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.

9. 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 case.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- 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.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

01.03.2023

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No