

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

CRM-M-10634-2023
Date of Decision: 10.03.2023

VIPIN

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Aman Pal, 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.69 dated 26.05.2020 registered under Section 8, 15(c), 27A, 29 of the NDPS Act at Police Station Titram, Kaithal.

2. The brief facts of the case are that while the police party was on patrolling duty, secret informer informed the party that Sarvjit Singh @ Sabli son of Gurmeet Singh and Vipin (petitioner) son of Pala Ram were indulging in the work of selling poppy husk and had kept a huge quantity in their truck bearing No.HR64-5638. They were travelling from Madhya Pradesh and coming via Hisar, Siwani, Titram Mod and would go towards Kaithal. If a *Nakabandi* was done, then Sarvjit Singh @ Sabli and Vipin could be arrested and heavy quantity of poppy husk could be recovered.

Based on the said information, the FIR in question came to be registered pursuant to which the recovery of 876 Kgs of poppy husk came to be effected from the truck.

4. The learned counsel for the petitioner submits that the offence if any has been committed by his co-accused. As per the disclosure statement made by the main accused Sarvjit Singh @ Sabli, he has admitted that he had called a number of persons for the purposes of trafficking in contraband. There was no evidence on record showing that the present petitioner had contacted any other person for the purposes of smuggling of the contraband. The co-accused of the petitioner had been granted the concession of bail and since the petitioner was in custody since 26.05.2020, he was entitled to the similar concession since only 04 out of the 49 prosecution witnesses had been examined so far and thereafter, a supplementary challan has been submitted against one Vinod which would further delay the Trial.

4. On the other hand, the learned State counsel contends that a huge quantity of contraband has been recovered from the petitioner. Therefore, the petitioner was not entitled to the grant of bail in terms of the restrictions imposed under Section 37 of the NDPS Act.

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.”

7. In the present case, the petitioner is stated to be in custody since 26.05.2020. Only 04 out of the 49 prosecution witnesses have been examined so far. Thereafter, a supplementary challan has been submitted against another accused namely, Vinod. This would further cause a delay in the conclusion of the Trial. Even otherwise, the petitioner is a first-time offender with no other case registered against him. In view of the substantial delay in the conclusion of the Trial, the rigors of Section 37 of the NDPS Act can be diluted to an extent in view of the salutary provisions of Article 21 of the Constitution of India and the petitioner can be granted the concession of bail.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Vipin son of Sh. Pala Ram 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.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.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

10.03.2023

JITESH

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