

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-11788-2023 (O&M)

Date of Decision: 10.08.2023

RAMESH KUMAR @ BABBU

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Baljinder Singh Sra, Advocate for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

HARNARESH SINGH GILL, J.(Oral)

Through this 4th petition, the petitioner seeks regular bail in case bearing FIR No.99 dated 15.06.2021, registered under Sections 21, 25 and 29 of the NDPS Act, at Police Station City Fazilka, District Fazilka, the earlier three bail petitions having been dismissed as withdrawn.

Learned counsel for the petitioner submits that the petitioner has falsely been involved in the present case; that, as per the prosecution, two persons were apprehended at the spot in a car, which was being driven by the petitioner; that as far as another case under the NDPS Act registered against the petitioner is concerned, the recovery effected in the said case is non-commercial quantity and he is on bail; that, though, the alleged recovery of 252 grams of Heroin effected in the present case, is marginally above the commercial quantity, yet the fact remains that the petitioner has been in custody since 15.06.2021; that the contraband was weighed along with the polythene bag; that out of 19 prosecution witnesses, none has been examined so far and that two co-accused, namely, Prince Ahuja @ Jharni @ Prince Kumar and Mukesh Kumar, have already been granted bail.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that recovery of intoxicating contraband effected in the present case, falls under commercial quantity and that Section 37 NDPS Act bars the grant of bail to the accused in case of commercial quantity. He further submits that the petitioner is a habitual offender and facing one more case under the NDPS Act and that out of 19 prosecution witnesses, none has been examined, though 8 given up and thus, the petitioner be not granted the concession of regular bail.

I have heard the learned counsel for the parties.

Though the recovery effected in the present case is marginally above the commercial quantity, yet the fact remains that the petitioner has been in custody since 15.06.2021. Co-accused have already been enlarged on bail. As far as other case is concerned, the recovery effected in the said is non-commercial quantity and the petitioner is on bail. Prosecution evidence is yet to commence, though 8 PWs have been given up. In such circumstances, the trial of the case would take a long time to conclude. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above and without commenting anything on the merits of the case, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/Chief Judicial Magistrate.

10.08.2023

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

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