

IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH

220

CRM-M-12330-2023 (O&M)

Date of Decision: 28.08.2023

BALTEJ SINGH @ TEJI

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. JS Sandhu, Advocate
for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

HARNARESH SINGH GILL, J.(Oral)

Prayer in this second petition is for grant of regular bail to the petitioner in case bearing FIR No.121 dated 17.11.2021, registered under Sections 21 and 22 of the NDPS Act, at Police Station Sadar Zira, District Ferozepur.

Learned counsel for the petitioner submits that initially 600 loose intoxicant tablets and 10 gram heroin were recovered from the petitioner; that, thereafter, on the basis of his disclosure statement, further recovery of 3000 tablets were recovered, which falls under a commercial quantity and that the petitioner has been in custody since 17.11.2021. He further submits that as far as FIR No.57 dated 24.06.2019, under Section 21 of the NDPS Act is concerned, the recovery effected in the said case is non-commercial quantity and the petitioner is on bail and in FIR No.104 dated 20.11.2021 under Sections 22 and 29 of the NDPS Act, the petitioner was indicted through production warrants and no recovery was

effected and the petitioner is on bail. Still further, it is submitted that out of total 18 prosecution witnesses, only 6 have been examined so far.

In support of his contentions, learned counsel relies upon the order dated 18.07.2023 passed by the Hon'ble Supreme Court in Special Leave Petition (Crl.) No.4637/2023, titled as Subhabrata Roy @ Bapi Roy @ Roy Bapi Vs. State of West Bengal, vide which the appellant therein who had as many as 19 cases, including 02 cases under the NDPS Act, registered or pending against him, has been granted the benefit of bail.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that recovery i.e. 3600 intoxicant tablets effected from the petitioner falls under the commercial quantity and that Section 37 NDPS Act bars the grant of bail to the accused in case of commercial quantity. It is further submitted that the petitioner is a habitual offender and facing two more NDPS cases, though on bail and that material prosecution witnesses are yet to be examined and thus, the petitioner be not granted the concession of regular bail.

I have heard the learned counsel for the parties.

Initially 600 loose tablets were recovered from the petitioner. Thereafter, on the basis of his disclosure statement, further recovery of 3000 tablet was effected. Though the said recovery of 3600 intoxicant tablets is a commercial quantity, yet the fact remains that the petitioner has been in custody since 17.11.2021. As far as FIR No.57 dated 24.06.2019, under Section 21 of the NDPS Act is concerned, the recovery

effected in the said case is a non-commercial quantity and the petitioner is on bail. As far as another FIR No.104 dated 20.11.2021 under Sections 22 and 29 of the NDPS Act is concerned, the petitioner was indicted through production warrants and no recovery was effected and the petitioner is on bail. Most of the prosecution witnesses are yet to be examined. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

The Hon'ble Supreme Court in Subhabrata Roy @ Bapi Roy @ Roy Bapi's case (supra), has held as under:

“Learned counsel for the appellant has drawn our attention to similar orders passed by this Court and sought relief on similar terms. Per contra, learned counsel for the respondent stated that the trial is at the fag end and only one witness has to be examined and, therefore, this is not a fit case for grant of bail; also there are other cases pending against the appellant, as noted in paragraph 5 of the counter affidavit.

Having heard learned counsel for the respective parties and on perusal of the material on record, we are inclined to follow the orders passed by this Court in Criminal Appeal No.2013 of 2022 – Sabikul Kunahar @ Sabiku Nahar Mondal v/s. The State of West Bengal on 18.11.2022; SLP (Crl.) No.9064/2022 – Subrata Biswas @ Subra Biswas v/s. The State of West Bengal on 25.11.2022 and order passed in Criminal Appeal No.2293 of 2022 – Soni Devi v/s. The State of West Bengal on 15.12.2022. In all the aforesaid cases, the recoveries made were in the

nature of 190 bottles or 30 bottles of Phensedyl Syrup etc. This Court, considering the fact that the accused therein were in custody for quite sometime, which is also so in the instant case, bail was granted to the accused therein. We see no reason to differ from the aforesaid orders. It is to be noted that in the present case, there was recovery of 28 bottles of 100ml each (2800ml) of Phensedyl Syrup. Considering the aforesaid orders and on the principle of Articles 14 and 21 of the Constitution of India, the appellant is released on bail, subject of course, to the conditions that may be imposed by the concerned Special Court. The present Appeal is disposed of in the aforesaid terms'.

In view of the above, this Court finds that no useful purpose would be served by keeping the petitioner behind the bars. Without commenting anything on the merits, 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 and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

28.08.2023

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>