

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-14264-2023 (O&M)
Date of decision: 04.05.2023

Jagga Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. B.S. Jatana, Advocate for the petitioner.

Mr. Avinit Avasthi, AAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Through this second petition (the first one having been dismissed as withdrawn on 05.07.2022), the petitioner seeks regular bail in case bearing FIR No.85 dated 28.08.2020, registered at Police Station Jaurkian, District Mansa, under Section 22 NDPS Act.

Status report by way of affidavit dated 26.04.2023 of the Deputy Superintendent of Police, Sub-Division Sardulgarh, District Mansa, submitted by the learned State counsel in the Court, is taken on record.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that as per the case of prosecution, recovery of 400 intoxicating tablets had been effected from the petitioner; that the petitioner had not misused the concession of interim bail granted to him, vide order dated 21.10.2020, to await the FSL report; that the petitioner has been in custody for the last more than 02 years and 05 months;

that out of 11 prosecution witnesses, only 04 have been examined so far and that there is no other case under the NDPS Act against the petitioner.

Learned counsel for the petitioner further contends that the recovery has already been effected. In support of his contentions, learned counsel for the petitioner relies upon the orders passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No.5769-2022, titled as 'Nitish Adhikary @ Bapan Vs. State of West Bengal', on 01.08.2022; Special Leave to Appeal (Crl.) No.4173-2022, titled as 'Shariful Islam @ Sarif Vs. State of West Bengal', on 04.08.2022 and order dated 25.01.2023, passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No(s).6690/2022, titled as 'Dheeraj Kumar Shukla Vs. State of Uttar Pradesh'.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that the intoxicating tablets recovered in the present case, fall under the commercial quantity and the case of the petitioner is hit by the bar contained under Section 37 NDPS Act. He further submits that the material witnesses are yet to be examined. However, he does not dispute the custody period of the petitioner.

I have heard the learned counsel for the parties.

The petitioner has been in custody for the last more than 02 years and 05 months. Out of 11 prosecution witnesses, 04 have been examined so far. The conclusion of the trial will take time. There is no other case under the NDPS Act against the petitioner. All these facts persuade this Court to grant bail to the petitioner despite the rigors of Section 37 NDPS Act in the present case. Therefore, no useful purpose would be served by keeping the petitioner

behind the bars. The concession of interim bail granted to the petitioner was not misused by the petitioner.

In view of the above, 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.

(HARNARESH SINGH GILL)
JUDGE

04.05.2023
Mangal Singh

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No