

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-16399-2023 (O&M)
Date of decision: 03.08.2023

BALBIR SINGH

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Abhishek Sharma, Advocate for the petitioner.

Mr. Rupinder Singh Jhand, Addl. AG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Through this third petition (the earlier two were dismissed as withdrawn on 22.04.2021 and 02.09.2021), the petitioner seeks regular bail in case bearing FIR No.359 dated 26.11.2019, registered at Police Station Parao Ambala Cantt. District Ambala, under Sections 21 and 29 (added later on) NDPS Act and Section 18(c) of the Drugs and Cosmetics Act, 1940.

Status report by way of affidavit dated 09.06.2023 of the Deputy Superintendent of Police, Ambala Cantt. 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 the petitioner has been in custody since 26.11.2019; that out of 20 prosecution witnesses, only 03 have been examined so far; that out of total 04 accused, 02 accused have since been granted the concession of bail and that there is no likelihood of

completion of trial in the near future. On this premise, learned counsel prays that the petitioner be released on regular bail.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that recovery of more 20000 intoxicating capsules/tablets effected from the petitioner and co-accused/Baldev Singh, falls under the category of 'commercial quantity', and Section 37 NDPS Act bars the grant of bail to the accused in case of 'commercial quantity'. The petitioner is facing trial in three other cases under the NDPS Act and being a habitual offender, he is not entitled for bail.

I have heard the learned counsel for the parties.

As per the case of prosecution, recovery of more than 20000 intoxicant capsules/tablets had been effected from the petitioner and co-accused. Indisputably, the recovered intoxicant capsules/tablets in the present case, falls under the category of 'commercial quantity'. Section 37 NDPS Act bars the grant of bail to the accused in case of 'commercial quantity'. The liberal approach in granting bail in cases under the NDPS Act, is uncalled for.

The Hon'ble Supreme Court, in Criminal Appeal No.1001- 1002 of 2022, titled as 'Narcotics Control Bureau Vs. Mohit Aggarwal', decided on 19.07.2022, has held that length of the period of custody of the accused or the fact that the charge-sheet has been filed and the trial has commenced are by themselves not considerations that can be treated as persuasive grounds for granting relief to the accused under Section 37 NDPS Act.

Moreover, the petitioner is also involved in three other cases of similar nature. It also shows that he has the tendency of committing repeated

crime(s) of similar nature. It is not denied for a moment that the period of custody is a relevant factor, but simultaneously the totality of the circumstances and the criminal antecedents are also to be weighed.

Keeping in view the criminal antecedents of the petitioner, the period of custody of petitioner i.e. since 25.11.2019, in my considered opinion, melts into insignificance. Still further, having had his complicity in the repeated offence of similar nature, the petitioner cannot seek the concession of regular bail, which of course, if granted would pave a way to him to involve himself in another similar offence.

Considering the same, at this stage, no justifiable ground is made out to extend the concession of regular bail to the petitioner.

Consequently, the present petition stands dismissed.

(HARNARESH SINGH GILL)
JUDGE

03.08.2023
Mangal Singh

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