

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

CRM-M-19444-2021

Date of Decision: 12.01.2023

AMIT KUMAR @ MINTU

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, D.A.G, Punjab.

JASJIT SINGH BEDI, J.

The petitioner seeks the grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.03 dated 17.01.2021 registered under Section 20 NDPS Act at Police Station Mohkampura, District Amritsar.

2. The brief facts of the case are that while the police party was on patrolling duty, secret information was received that Amit Kumar @ Minto (petitioner) son of Pawan Kumar was indulging in the sale of narcotics. He would be carrying cannabis (*charas*) in a polythene bag and coming by foot from Jaura Phatak side and was going to supply his consignment to a customer. If a barricading was done, he could be arrested. Based on the said information, a barricading was done and the petitioner came to be apprehended, pursuant to which the recovery of 1 kg 80 grams cannabis (*charas*) was recovered from him contained in a polythene bag.

3. The learned counsel for the petitioner contends that the recovery from the petitioner is of quantity, marginally above the commercial quantity

of *charas* which was 01 kg. He was in custody since 17.01.2021 and since only 01 out of the 12 prosecution witnesses had been examined so far therefore, the Trial of the present case was not likely to be concluded anytime soon. Even otherwise, since he was a first-time offender with no other case registered against him under the NDPS Act, the petitioner ought to be granted the concession of bail.

4. On the other hand, the learned State counsel contends that commercial quantity of contraband has been recovered from the petitioner and as such, he was not entitled to the grant of bail. He, however, does not deny the period of custody undergone by the petitioner, the stage of Trial as also the fact that the petitioner is a first-time offender.

5. I have heard the learned counsel for parties.

6. The Hon'ble Supreme Court in **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. This Court in the case of **Ravi Kant Versus U.T., Chandigarh, CRM-M-50026-2022, decided on 11.01.2023**, granted bail to the petitioner, wherein the recovery was of 1 kg 25 grams of *charas*.

8. In view of the fact that the petitioner has undergone almost 02 years of actual custody coupled with the fact that the recovery from the petitioner is of quantity, marginally above commercial quantity, the rigors of Section 37 of the NDPS Act can be relaxed to an extent in view of the salutary provisions of Article 21 of the Constitution of India which provides for the right to a speedy trial and the petitioner can be granted the concession of bail.

9. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Amit Kumar @ Mintu son of Pawan Kumar 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.

10. 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.

11. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- 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.

12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

12.01.2023

JITESH

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