

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-18754-2023 (O&M)
Date of decision: 27.07.2023

GURMUKH SINGH @ SONU

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Amardeep Singh, Advocate for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

The petitioner has filed this second petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.51 dated 18.05.2021, registered under Section 22 of the NDPS Act, (Sections 8, 27-A, 29 of the NDPS Act and Sections 420, 120-B, 468, 471 IPC added later on) at Police Station Mattewal, District Amritsar Rural. The first bail petition was dismissed as withdrawn on 07.03.2022.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case; that though the alleged recovery effected from the petitioner is marginally above the commercial quantity but the fact remains that the petitioner has been in custody since 18.05.2021; that none has been examined, out of 80 prosecution witnesses; that there is no other pending or registered case against the petitioner, at least of similar nature and that co-accused Sameer Kumar @ Pardhan, who is similarly

situated, has already been granted bail by a Coordinate Bench vide order dated 25.05.2023.

In support of his contentions, he relies upon the order delivered 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.

Per contra, while opposing the prayer for grant of regular bail to the petitioner, learned State counsel does not dispute the custody period of the petitioner and the fact that there is no other pending or registered case against the petitioner, at least of similar nature. He, however, submits that the recovery effected from the petitioner in the present case falls under the commercial quantity and that Section 37 of the NDPS Act bars the grant of bail to the accused in case of commercial quantity. He further submits that the material witnesses are yet to be examined.

I have heard the learned counsel for the parties.

Though the recovered contraband in the present case falls under the commercial quantity, yet the fact remains that the petitioner has been in custody since 18.05.2021 and that the prosecution witnesses are yet to be examined. Similarly situated co-accused Sameer Kumar @ Pardhan has already been granted the concession of regular bail. There is no other pending or registered case against the petitioner, at least of similar nature. In such circumstances, 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, 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

27.07.2023
Mangal Singh

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