

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-18835-2023

Date of Decision:-24.04.2023

Jasmeet Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Jagdeep Singh Virk, Advocate &
Anmol Singh Virk, Advocate for the Petitioner.

Ms. Ramta K. Chaudhary, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.27 dated 17.02.2021 under Sections 22/29/61/85 of NDPS, Act registered at Police Station Shambu, District Patiala.

2. The brief facts of the case are that while the police party was on patrolling duty a person was seen coming having a black colour shoulder bag. He was apprehended on suspicion and on asking disclosed his name as Jasmeet Singh (petitioner). On his bag being checked it was found to contain 12000 tablets of Lomotil.

Based on the aforementioned facts, the FIR in question came to be registered.

3. The Counsel for the petitioner contends that mandatory provisions of search and seizure have not been complied with when the petitioner was arrested. No independent witness was joined at the time of

the alleged recovery. As the petitioner was in custody since 17.02.2021 and only 06 out of 13 prosecution witnesses had been examined so far, the petitioner was entitled to the grant of bail in view of the judgment of 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*** which had been followed by this Court in ***Balraj Singh Vs. State of Punjab CRM-M-57386-2022 Decided on 14.12.2022***.

4. The Counsel for the State on the other hand contends that commercial quantity of contraband has been recovered from the Petitioner. Therefore, in view of the bar contained under Section 37 of the NDPS Act, the petitioner was not entitled to the grant of bail. He however, does not dispute the fact that the petitioner is in custody since 17.02.2021, only 06 out of 13 prosecution witnesses had been examined and he is a first time offender.

5. I have heard the learned counsel for the 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 aforesaid terms.

Pending application(s), if any, shall stand disposed of.”

The aforementioned decision has been followed by this Court in the case of ***Balraj Singh Vs. State of Punjab CRM-M-57386-2022 Decided on 14.12.2022.***

7. In the instant case, petitioner is in custody since 17.02.2021. He is a first time offender. Only 06 out of 13 prosecution witnesses have been examined so far. As the Trial of the present case is not likely to be concluded anytime soon, the provisions of Section 37 of the NDPS Act can be diluted to an extent in view of the salutary provisions of Article 21 of the Constitution of India which provides for a right to speedy Trial and the petitioner can be granted the concession of bail.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Jasmeet Singh** son of Sh. Jasvir Singh 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.

9. 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 one.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- 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.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

April 24, 2023

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