

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-20646 of 2022 (O&M)

DECIDED ON: 6th February, 2023

Gorakhjit Singh

.....PETITIONER

VERSUS

Union of India

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. S.S. Rana, Advocate and
Mr. Arvind Kumar Sharma, Advocate for petitioner.

Mr. Rajiv Sharma, Advocate for UOI

AVNEESH JHINGAN, J (ORAL)

This is second petition for regular bail in case of Crime No. 49 dated 29.9.2020, under Section 8, 20(b) (ii)(c), 25, 27-A, 28, 29, 30, 60 and 62 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act'), registered at P.S. NCB, Sector 25 (W), Chandigarh.

Bail is sought by petitioner on the basis of parity with co-accused - Simranpal Singh, who was granted bail by this Court on 17.9.2021 in CRM-M-10276 of 2021 by passing the following orders:

" Due to COVID-19 situation, the Court is convened through video conference.

2. This petition under Section 439 Cr.P.C. is filed for seeking regular bail in Crime No. 49, dated 29.09.2020, under Sections 8, 20, 25, 27-A and 29 of NDPS Act, 1985 registered at Police Station Mullanpur, SAS Nagar, Mohali. 3. The case against the petitioner is that he is one of the occupants of the car from which the recovery of 1 kg 5 gm of charas was made.

4. *Learned counsel for the petitioner submits that no recovery was made from the conscious position of the petitioner. The recovery was made from the petitioner is marginally higher than commercial quantity. Petitioner has no criminal antecedents. Investigation is complete. Petitioner is in custody since 29.09.2020. No recovery was made from the petitioner.*

5. *Learned counsel appearing for NCB opposes the prayer for grant of regular bail. She submits that recovery is of commercial quantity. During investigation, it revealed that petitioner had paid Rs. 42,000/- as part payment for purchase of Charas.*

6. *Petitioner is in custody since September, 2020. Investigation is complete, he has no criminal antecedents. The recovery is of commercial quantity.*

7. *Considering the facts and circumstances of the case in totality, petitioner is granted bail subject to her furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.*

8. *The petition is allowed.*

9. *It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case. "*

Order dated 17.9.2021, was challenged before the Supreme Court and on 23.1.2023 the following order was passed:

" Delay condoned.

We have heard learned counsel for the petitioner.

Although the order granting bail to the respondent does not disclose the rigours of Section 37 of the NDPS Act yet as the respondent is on post-arrest bail since 17.09.2021 and co-operating with the pending trial, as informed tot his Court and it is also not the case of the petitioner that the respondent has even breached the conditions imposed on him while granting bail, we are not inclined to interfere with the impugned order passed by the High Court.

The Special leave petition is, accordingly, dismissed.

Pending application, if any, stands disposed of."

Learned State counsel opposes the prayer for bail but on instruction is not able to distinguish parity of petitioner viz-a-viz co-accused so far as grant of bail is concerned.

Without commenting upon the merits of the case and on the basis of parity of petitioner with co-accused, bail is granted to the petitioner on furnishing surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

The petition is allowed.

It is clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

Since the main case has been decided, the pending application, if any is rendered infructuous.

6th February, 2023

reema

**(AVNEESH JHINGAN)
JUDGE**

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