

CRM-M-19703-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-19703-2023

Date of decision: 31.07.2023

ARPIT JAIN

...Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Bipan Ghai, Sr. Advocate with
Mr. Rishabh Singla, Advocate and
Mr. Ankush Dhand, Advocate,
for the petitioner.

Mr. Hakam Singh, AAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

1. Through this second petition, the petitioner seeks regular bail in case FIR No.124 dated 27.07.2021, registered at Police Station City Patti, District Tarn Taran, under Sections 21 and 29 NDPS Act, 1985.

2. Affidavit of Inspector, Station House Officer, Police Station City Patti, District Tarn Taran, filed in the Court today, is taken on record.

3. Learned Senior Counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that though recovery of 290 gram heroin allegedly effected from the petitioner, falls under commercial quantity, yet the fact remains that the petitioner has been in custody since 27.07.2021 and that charges are yet to be framed. So far as FIR No.233 dated 26.09.2022, registered at Police Station STF Phase 4,

SAS Nagar Mohali, against the petitioner is concerned, sections under the

CRM-M-19703-2023

provisions of NDPS Act have been deleted and that there is now no other case registered or pending against the petitioner, at least of a similar nature. It is further submitted that co-accused from whom recovery of contraband falling under non-commercial quantity, was effected, has since been granted the concession of regular bail by learned Addl. Sessions Judge, Tarn Taran. In support of his contentions, learned Senior Counsel relies upon the order dated 04.05.2023, passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No(s).3221/2023, titled as 'Hasanujjaman & Ors Vs. The State of West Bengal'.

4. On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that recovery of contraband effected from the petitioner, falls under commercial quantity and that Section 37 NDPS Act bars the grant of bail to the accused in case of commercial quantity. It is further submitted that material witnesses are yet to be examined.

5. I have heard the learned counsel for the parties.

6. Indisputably, recovery of contraband effected from the petitioner, falls under commercial quantity, but the fact remains that the petitioner has been in custody since 27.07.2021 and charges are yet to be framed. Trial is unlikely to conclude any time soon. There is no other case registered or pending against the petitioner, at least of a similar nature. As stated above, the co-accused has since been bailed out.

7. The Hon'ble Supreme Court in Hasanujjaman & Ors.(supra), while granting the benefit of bail to the petitioners therein, has held as under:

CRM-M-19703-2023

“2. The allegations are that when the police party intercepted the petitioners along with another person riding on two motorcycles, they were found in possession of codeine phosphate in a consignment of phensedyl bottles loaded in two nylon bags. During the search, 115 bottles (100 ml. each) of phensedyl were recovered from the joint possession of the petitioners. They were arrested on the spot and have been in custody for more than one year and four months.

3. We have heard learned counsel for the parties and carefully perused the record.

4. The investigation is complete; chargesheet has been filed, though the charges are yet to be framed. The conclusion of trial will, thus, take some reasonable time, regardless of the direction issued by the High Court to conclude the same within one year from the date of framing of charges. The petitioners do not have any criminal antecedents. There is, thus, substantial compliance of Section 37 of the NDPS Act.

5. In such circumstances, but without expressing any views on the merits of the case, we deem it appropriate to release the petitioners on bail subject to the terms and conditions as may be imposed by the Trial Court. 6.

Additionally, it is clarified that in case the petitioners are found involved in any other case under the NDPS Act or other penal law, it shall amount to misuse of the concession of bail granted to them today, and in such a case, necessary consequences shall follow.

7. The petitioners are further directed to appear before the Trial Court regularly. In the event of they being absent, it shall again be taken as a misuse of concession of bail.

8. The Special Leave Petition stands disposed of in the above terms.

CRM-M-19703-2023

9. As a result, pending interlocutory application also stands disposed of.”

8. In view of the above, this Court finds that no useful purpose would be served by keeping the petitioner behind the bars. Resultantly, 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.

31.07.2023
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

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