

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

**CRM-M-24491-2023**

**Date of Decision:-18.05.2023**

**Nitin Kumar.**

.....Petitioner.

Vs.

**The State of Punjab.**

.....Respondent.

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

Present:- Mr. Karajveer Singh, Advocate for  
Mr. Deepak Negi, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

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**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.0070 dated 13.03.2021 under Sections 22/61/85 of NDPS Act registered at Police Station Patran, District Patiala.

2. The brief facts of the case are that while the police party was on patrolling duty an information was received that Nishan Singh & Nitin Kumar (petitioner) in connivance with each other were dealing in selling of intoxicating tablets. They would be coming on a motor cycle bearing registration number HR-32-0675 and if a *nakabandi* was set up they could be arrested.

Based on the aforesaid information a picket was set up and a *ruqa* was sent for registration of the FIR. Thereafter the petitioner and his co-accused came to be arrested and a recovery of 14,000/- intoxicating tablets came to be effected from them.

3.

The Counsel for the petitioner contends that the petitioner has

been falsely implicated in the present case. The mandatory provisions regarding search and seizure have not been complied with in their proper perspective. No independent witness was joined at the time of search and seizure. As the petitioner was in custody since 13.03.2021 and only 04 of the 13 prosecution witnesses had been examined so far, he was entitled to the concession of bail. Reliance is placed on 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 the serious nature of the allegations did not entitle the petitioner to the grant of bail. He however, does not dispute the fact that the petitioner is a first time offender, is in custody since 13.03.2021 and only 04 out of 13 prosecution witnesses had been examined.

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, admittedly the petitioner is stated to be in custody since 13.03.2021. Only 04 out of 13 prosecution witnesses have been examined so far and he is a first time offender with no other case registered against him under the NDPS Act. Therefore, 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 the 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-**Nitin Kumar** son of Sh. Janeshwar Prasad 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.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.

11. The petition stands disposed of.

( JASJIT SINGH BEDI )  
JUDGE

May 18, 2023  
Vinay

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