

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

CRM-M-23321-2022

Date of Decision:-17.05.2023

Gagandeep Singh @ Budu.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. L.S. Sekhon, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, 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.86 dated 23.04.2021 under Sections 22 of NDPS Act registered at Police Station City Rajpura, District Patiala.

2. The brief facts of the case are that while the police party had conducted a special *nakabandi* in relation to checking of suspicious vehicles, one Innova car bearing registration number PB-13W-5151 came from the side of Ambala and was signalled to stop. The driver of the car tried to accelerate the vehicle but the same was intercepted and was got parked on the side of the road. The driver disclosed his name as Gagandeep Singh @ Budu (petitioner). Recovery of 1,00,000 intoxicating tablets containing salt Tramadol Hydrochloride came to be effected from the vehicle. Pursuant to the same the instant FIR came to be registered.

3. The Counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. There is non compliance of

Section 42 of the NDPS Act. ASI Jaswinder Pal Singh was travelling in a private vehicle which was contrary to the rules. In fact the car in question belonged to Gurtej Singh son of Balvir Singh and the petitioner was only working as a driver. As the petitioner was in custody since 23.04.2021 and only 01 out of 13 prosecution witnesses had been examined so far, the petitioner 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 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 fairly concedes that the petitioner is in custody since 23.04.2021, only 01 out of 13 prosecution witnesses had been examined and that 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 aforestated 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 23.04.2021, only 01 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-**Gagandeep Singh @ Budu** son of Sh. Maghar 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.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 17, 2023
Vinay

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