

CRM-M-22444-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**Date of decision: 30.05.2023****Sr. No.218****1. CRM-M-22444-2023 (O & M)**

Kaso Kaur Petitioner

V/s

State of Punjab ...Respondent

Sr. No.212**2. CRM-M-4551-2023 (O & M)**

Charanjit Kaur Petitioner

V/s

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDIPresent: Mr. Kanisth Ganeriwala, Advocate,
for the petitioner (in both the petitions).

Ms. Ramta K Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

By this common order, I shall dispose of two petitions bearing CRM-M-22444-2023 and CRM-M-4551-2023 as the same have arisen out of the same FIR bearing No.214 dated 02.05.2021 under Sections 21/22/29 of the NDPS Act registered at Police Station City Barnala, District Barnala.

2. The prayer in the present petitions under Section 439 Cr.P.C. is for the grant of regular bail to the petitioners, namely, Kaso Kaur (in CRM-M-22444-2023) and Charanjit Kaur (in CRM-M-4551-2023) in case FIR

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No.214 dated 02.05.2021 under Sections 21/22/29 of the NDPS Act registered at Police Station Barnala, District Barnala.

3. The brief facts of the case are that while patrolling, the investigating agency received secret information that Kaso Kaur (petitioner in CRM-M-22444-2023) wife of Jinder Singh and Charanjit Kaur (petitioner-in CRM-M-4551-2023) wife of Sultan Singh were indulging in the supply of intoxicant vials and intoxicant powder. They had brought the same from outside the State and were present at bridge of Bajar Khana Road, Barnala. If a raid was conducted, they could be arrested and the illicit substances could be recovered.

Based on the said information, the instant FIR came to be registered, consequent to which, the recovery of 1500 intoxicant tablets make CELCIDAL 100 SR, two intoxicant vials make WINCIREX, 100 gram intoxicant powder (chitta) and Rs.32,000/- drug money was effected from them.

4. The learned counsel for the petitioners contends that they had been falsely implicated in the present case. The mandatory provisions of search and seizure had not been complied with. As they were first-time offenders, in custody since 02.05.2021 and only 03 of the 14 prosecution witnesses had been examined so far, they were entitled to the concession of bail. Reliance is placed on the judgment of the Hon'ble Supreme Court in 'Nitish Adhikary @ Bapan versus The State of West Bengal, SLP (Crl.) Nos. 5769/2022 arising out of judgment and order dated 04.05.2022 in CRM (NDPS) No.442-2022 decided on 01.08.2022 and followed by this Court in the case of 'Balraj Singh versus State of Punjab (CRM-M-57386-

5. The learned counsel for the State, on the other hand, contends that commercial quantity of the contraband had been recovered from the petitioners. Therefore, the petitioners were not entitled to the grant of concession of bail in view of the bar contained under Section 37 of the NDPS Act. He, however, concedes that the petitioners are in custody since 02.05.2021, were first-time offenders and only 03 of the 14 prosecution witnesses had been examined so far.

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

7. The Hon'ble Supreme Court in the case of **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.

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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.”

This Court in the case of **Balraj Singh Versus State of Punjab, CRM-M-57386-2022, decided on 14.12.2022** has followed the dictum laid down by the Hon'ble Supreme Court and granted bail to the petitioner therein after he had undergone total custody of 01 year and 06 months.

8. In the instant case, the FIR pertains to 02.05.2021. The petitioners are stated to be in custody since that date. Only 03 of the 14 prosecution witnesses have been examined so far and the petitioners are first-time offenders. In this view of the matter, the rigors of Section 37 of the NDPS Act can be relaxed to an extent in view of the salutary provisions under Article 21 of the Constitution of India which provides for the right to a speedy Trial and the case of the petitioners can be considered for the grant of concession of bail.

9. Thus, without commenting upon the merits of the case, the present petitions are allowed and the petitioners, namely, Kaso Kaur (in CRM-M-22444-2023) and Charanjit Kaur (in CRM-M-4551-2023) are ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

10. The petitioners shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that they are not involved in any case/crime

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11. In addition, the petitioners, namely, Kaso Kaur (in CRM-M-22444-2023) and Charanjit Kaur (in CRM-M-4551-2023) (or someone on their behalf) shall prepare an FDR in the sum of Rs.50,000/- each 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 petitioners from trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

May 30, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No