

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-26623-2023 (O&M)
Date of decision: 01.06.2023

Shahnawaz Ghulam Choratwala

...Petitioner

Versus

Narcotic Control Bureau

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. A.P. Kaushal, Advocate for the petitioner.

Ms. Gurmeet Kaur Gill, Advocate for UOI.

HARNARESH SINGH GILL, J. (ORAL)

The petitioner has filed this second petition under Section 439 of Cr.P.C. for grant of regular bail in case Crime No.14 dated 26.02.2020, registered under Sections 8, 20, 23(C), 27-A, 28, 29 and 60 of the NDPS Act, at Narcotic Control Bureau, Chandigarh.

Reply by way of affidavit dated 29.05.2023 of the Intelligence Officer, NCB, Chandigarh submitted by the learned counsel appearing for UOI in the Court, is taken on record. Copy of the same has been handed over to the learned counsel for the petitioner, in the Court.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case; that though the alleged recovery effected from the petitioner, falls under the commercial quantity yet the fact remains that the petitioner has been in custody since 26.02.2020 i.e. more

than 03 years and 02 months and there is no other case registered or pending under the NDPS Act against the petitioner; that the concession of interim bail earlier granted to the petitioner was never misused by him and that out of 31 prosecution witnesses, only 10 have been examined so far and that co-accused, namely, Nizammudin Moosa Kara, Ved Ram, Maheshwar and Shahida Nizamuddin Kara, have already been enlarged on bail.

In support of his contentions, learned counsel for the petitioner relies upon the orders dated 15.03.2023 and 01.08.2022 passed by Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No. 1166-2023 titled as 'Chet Ram @ Ram Veer Vs. Union of India' and in Special Leave to Appeal (Crl.) No.5769-2022, titled as 'Nitish Adhikary @ Bapan Vs. State of West Bengal', respectively.

Per contra, while opposing the prayer for grant of regular bail to the petitioner, learned counsel for UOI does not dispute the custody period of the petitioner, but submits that the recovery effected from the petitioner falls under the commercial quantity and that Section 37 of the NDPS Act bars the grant of bail to the accused in case of commercial quantity. She further submits that out of 32 prosecution witnesses, 10 have been examined and 02 have been given up, but some of the material witnesses are yet to be examined. Yet further, it is submitted that the petitioner had been in regular touch with other co-accused and is a member of a big drug racket and enlarging him on bail would pave him the way to commit more such crimes.

I have heard the learned counsel for the parties.

Though the recovery effected from the petitioner falls under the

commercial quantity, yet the fact remains that the petitioner has been in custody since 26.02.2020 i.e. more than 03 years and 02 months and there is no other case registered or pending under the NDPS Act against the petitioner. Remaining 20 prosecution witnesses are yet to be examined. Therefore, the conclusion of the trial would take time. Moreover, co-accused are already on bail. Hence, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

(HARNARESH SINGH GILL)
JUDGE

01.06.2023
Mangal Singh

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