

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-28182-2022 (O&M)
Date of decision: 14.07.2023

Joginder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Munish Gulati, Advocate for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks regular bail in case bearing FIR No.16 dated 19.03.2021, registered at Police Station Arif Ke, District Ferozepur, under Sections 21, 23, 29, 61 of the NDPS Act, 1985.

Status report by way of affidavit dated 29.04.2023 of the Deputy Superintendent of Police (Rural), Ferozepur, submitted by the learned State counsel in the Court, is taken on record.

Learned counsel for the petitioner contends that the FIR was registered in the basis of secret information; that as per the prosecution version, the alleged recovery of 440 grams of *Heroin* has been effected in the present case; that though the alleged recovery falls under the commercial quantity, but the fact remains that the mandatory provisions of the NDPS Act have not been complied with and the petitioner has been in custody since

19.03.2021 i.e. more than 02 years and 3 months and out of 14 prosecution witnesses, only 06 have been examined so far and that there is no other case pending or registered against the petitioner, at least of a similar nature.

In support of his case, learned counsel for the petitioner relies upon the order 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'.

Per contra, while opposing the prayer for grant of regular bail to the petitioner, learned State counsel does not dispute the custody period of the petitioner and the fact that there is no other case pending or registered against the petitioner, at least of a similar nature. He, however, 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. He further submits that the material witnesses are yet to be examined.

I have heard the learned counsel for the parties.

Though the recovered contraband in the present case, falls under the commercial quantity, yet the fact remains that the petitioner has been in custody for the last more than 02 year and 03 months and that remaining 08 prosecution witnesses are yet to be examined. In such circumstances, trial of the case would take a long time to conclude. There is no other case registered or pending against the petitioner, at least of a similar nature. Therefore, 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

14.07.2023
Mangal Singh

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