

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-27773-2023 (O&M)
Date of decision: 01.08.2023

VIJAY SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. R.S. Sekhon, Advocate for the petitioner.

Mr. Hakam Singh, AAG Punjab.

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 FIR No. 184 dated 13.12.2021 registered under Sections 22 of the NDPS Act at Police Station Balongi, District SAS Nagar (Mohali). The earlier bail petition was dismissed on merit on 19.07.2022.

Status report by way of affidavit dated 01.08.2023 of the Deputy Superintendent of Police, Sub-Division Khrar-1, District SAS Nagar, submitted by the learned State counsel in the Court, is taken on record.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case; that the petitioner has been in custody since 13.12.2021 i.e. 01 year and 07 months. It is further submitted that as per the allegations, alleged motorcycle was driven by co-accused and the petitioner was the pillion rider and the recovery of 39000 intoxicant tablets was effected from a bag which lying in between the petitioner and co-

accused. The recovery has already been effected. Only 02 out of 14 prosecution witnesses, have been examined. There is no other pending or registered case against the petitioner.

In support of his case, learned counsel for the petitioner relies upon the order passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No.5769-2022, titled as 'Nitish Adhikary @ Bapan Vs. State of West Bengal', on 01.08.2022 and the order 04.05.2023 passed 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 under the NDPS Act. He, however, submits that the recovery effected in the present case 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 since 13.12.2021 i.e. 01 year and 07 months. The recovery was effected from a bag lying in between the petitioner and the co-accused while they were travelling on the motor-cycle and petitioner was the pillion rider. There is no other pending or registered case against the petitioner. Remaining

12 prosecution witnesses are yet to be examined. In such circumstances, trial of the case would take a long time to conclude. 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

01.08.2023
Mangal Singh

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