

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

203

CRM-M-29618-2022(O&M)
Date of decision: 10.05.2023

Gurbhej Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. G.S. Sandhu, Advocate for the petitioner.

Mr. Kunal Muthreja, AAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

CRM-23761-2022

Application is allowed as prayed for.

Main case:

The petitioner has filed this 2nd petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.04 dated 05.01.2021, registered under Sections 21(c) of the NDPS Act (wrongly mentioned as 22(c) of the NDPS Act in the order passed by learned Session Court), at Police Station Kabarwala, District Sri Muktsar Sahib. The earlier petition was dismissed as withdrawn on 24.05.2022.

Learned counsel for the petitioner submits that though the alleged recovery effected in the present case falls under the commercial category but the fact remains that the petitioner has been in custody since 05.01.2021 and other co-accused have already been granted the concession of bail; that the challan has been presented and out of 42 prosecution witness,

none has been examined so far and that as far as one more case under the NDPS Act (FIR No.5 dated 05.01.2021 registered under Sections 21 and 29 of NDPS at Police Station Vairo Ke, District Fazilka) against the petitioner is concerned, the petitioner was involved on the disclosure statement of the co-accused and even no recovery was effected from him and in that case he has been granted regular bail by this Court vide order dated 17.12.2021 (Annexure P-3).

In support of his case, learned counsel for the petitioner relies upon the orders dated 25.01.2023, passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No(s).6690/2022, titled as 'Dheeraj Kumar Shukla Vs. State of Uttar Pradesh'. .

Learned State counsel, while vehemently opposing the prayer for bail, submits that the recovery effected from the petitioner falls under the commercial quantity and though he is on bail in FIR No. 05 dated 05.01.2021, Police Station Vairo Ke, District Fazilka, under the NDPS Act but the fact remains that he is a habitual offender and is involved in other cases also. Material witnesses are yet to be examined. However, he does not dispute the custody period of the petitioner. He submits that the challan has been presented but the prosecution witnesses are yet to be examined.

I have heard the learned counsel for the parties.

The recovery effected in the present case falls under the commercial quantity. In another case registered under the NDPS Act, on the same day, the petitioner was indicted on the disclosure statement of co-accused and no recovery was effected from him and in that he is on bail. In

the present case, the petitioner has been in custody for more than 02 years and 03 months. Co-accused have already been enlarged on bail. The recovery has already been effected. The prosecution witnesses are yet to be examined. Therefore, the conclusion of the trial would take time. 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

10.05.2023
Mangal Singh

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