

208-b

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-30037-2022

Decided on:-23.02.2023

Gagandeep Singh @ Gandhi

....Petitioner..

vs.

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Preetwinder Singh Dhaliwal, Advocate,
for the petitioner.

Mr. Amit Shukla, AAG, Punjab,
for respondent-State.

HARKESH MANUJA J. (Oral)

By way of present petition filed under Section 439 Cr.P.C., the petitioner prays for grant of regular bail during pendency of trial in case FIR No.034 dated 04.06.2021, under Sections 21(c), 22, 25, 29 (Act No.61 of 1985) of NDPS Act, 1985 and Section 473 IPC, registered at Police Station Sehna, District Barnala.

Learned counsel for the petitioner submits that the petitioner was not named in the FIR but later on, nominated as an accused on the basis of disclosure statement made by one, Jasmail Singh @ Maddi. He further submits that recovery of 11 grams of white intoxicant powder was effected from the petitioner, which falls under the non-commercial quantity and no other case under the NDPS Act is registered against him.

Learned counsel further submits that the petitioner is behind the bars for the last 01 year, 8 months and 16 days now and the investigation in

the present case already stands concluded with the filing of challan, charges framed and trial is likely to take long time as only 11 witnesses have been examined out of total 29 as cited by the prosecution, as such, no useful purpose is going to be served by keeping the petitioner behind the bars.

On the other hand, learned State counsel opposes the prayer made in the present petition and prays for dismissal of present petition.

I have heard learned counsel for the parties and gone through the paper book. I find merits in the submissions made on behalf of the petitioner.

Considering the facts that the petitioner is already behind the bars for the last more than 1 year and 8 months now and the investigation in the present case already stands concluded with the filing of challan, charges framed and trial is likely to take long time as only 11 witnesses have been examined out of total of 29 cited by the prosecution, no useful purpose is going to be served by extending the incarceration of the petitioner, particularly, in view of the facts that the petitioner was nominated on the basis of disclosure statement made by one Jasmail Singh @ Maddi and no other case under NDPS Act is registered against him, besides it, recovery of contraband being of non-commercial quantity. Reliance can be placed upon the law laid down by Hon'ble the Supreme Court in "Special Leave to Appeal (Crl.) No.5530/2022, titled as ***"Mohammad Salman Hanif Shaikh vs. The State of Gujrat"***, Special Leave to Appeal (Crl.) No.4173/2022, titled as ***"Shariful Islam @ Sarif vs. The State of West Bengal"*** and Special Leave to Appeal (Crl.) No.5769/2022, titled as ***"Nitish Adhikary @ Bapan vs. The State of West Bengal"***.

In view of the above, without expressing any opinion on the merits of the case, the present petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing bail bonds and surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

23.02.2023
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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/ No