

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

CRM-M No.30339 of 2022 (O&M)
DATE OF DECISION: 18th OCTOBER, 2023

Davinder Singh @ Jassi

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Arshdeep Singh Brar, Advocate for
Mr. L.S. Lakhanpal, Advocate,
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

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RAJBIR SEHRAWAT, J. (Oral)

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of bail pending trial in case FIR No.81 dated 12.08.2021 registered under Sections 22-B and 61 of NDPS Act, 1985 at Police Station Mehna, District Moga.

2. It is submitted by learned counsel for the petitioner that the case against the petitioner is concocted. The petitioner is not involved in the crime as alleged against him. Even as per the story of prosecution, the police have allegedly recovered 150 tablets containing prohibit substance. However, for that, the petitioner is in custody since 16.08.2021. Despite passage of time, the prosecution has not completed the entire evidence, so far. In fact, out of 11 witnesses, only 4 witnesses have been examined before the trial Court. Though, some witnesses have been given up by the prosecution, however, still 02 witness are yet to be

examined. There is no other case against the petitioner under the NDPS Act. The counsel for the petitioner has relied upon the judgments rendered by Hon'ble the Supreme Court in the cases of *Nitish Adhikary @ Bapan Versus The State of West Bengal, vide order dated 01.08.2022 passed in SLP (Criminal) No.5769-2022; Mohd. Muslim @ Hussain Versus State (NCT of Delhi), 2023 AIR (Supreme Court) 1648 and Md. Hasanuzzaman and others Versus The State of West Bengal and others, SLP (Crl.) No.3221 of 2023, vide order dated 04.05.2023*, to buttress his arguments. Hence, the petitioner deserves to be released on bail pending trial.

3. On the other hand, learned State Counsel, being instructed by ASI Balwinder Singh, has submitted that commercial quantity of prohibit substance was recovered from the petitioner. Therefore, the petitioner does not deserve any concession of bail pending trial. However, it is not disputed by learned State counsel that the petitioner is in custody since 16.08.2021 and that the prosecution evidence has not been completed, so far. It is also not disputed by learned State counsel that there is no other case against the petitioner under the NDPS Act.

4. In view the above, but without expressing any further opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial subject to his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

18th OCTOBER, 2023
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(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

<i>Yes</i>	<i>No</i>
<i>Yes</i>	<i>No</i>