

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

204

CRM-M-30807-2022 (O&M)

Date of Decision: 29.05.2023

PRITAM

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Kuldeep Singh Siwach, Advocate
for the petitioner.

Ms. Tanushree Gupta, DAG Haryana.

HARNARESH SINGH GILL, J.(Oral)

CRM-11861-2023

This is an application for placing on record the amended
petition.

With no objection from the learned State counsel, the present
application is allowed.

Amended petition is taken on record.

Registry is directed to tag the same at an appropriate place.

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Through this second petition, the petitioner seeks regular
bail in case bearing FIR No.247 dated 28.07.2020, registered under
Sections 22-C and 27-A and Sections 29 and 31 of the NDPS Act (added
later on), at Police Station Bhuna, District Fatehabad.

Learned counsel for the petitioner submits that the petitioner

has falsely been implicated in the present case; that neither the petitioner was named in the FIR nor was he present at the spot; that no recovery was effected from the petitioner and that the petitioner has been indicted in the present case on the disclosure statement of co-accused, namely, Kuldeep and Satpal. He further submits that on 18.08.2020, when the petitioner was produced before the trial Court through production warrant, he was implicated in the present case and since then, he has been in custody.

Learned counsel for the petitioner further submits that the charges are yet to be framed and the prosecution evidence is to commence; that as far as another case under NDPS Act is concerned, the petitioner is on bail in the said case and that the same was registered on 29.07.2020 and thereafter, the petitioner was indicted in the present case on 18.08.2020.

In support of his contentions, learned counsel for the petitioner relies upon the orders dated 30.11.2022 and 15.03.2023 passed by the Hon'ble Apex Court in Special Leave to Appeal (Crl.) No.4729-2022 titled as 'Abu Taher Mandal @ Sentu vs. State of West Bengal' and Special Leave to Appeal (Crl.) No.1166/2023 titled as 'Chet Ram @ Ram Veer vs Union of India', respectively.

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. She, however, submits that the recovery effected in the present case falls under the commercial quantity and that Section 37 NDPS Act bars the grant of bail to the accused in the case of

commercial quantity. She further submits that the petitioner is a habitual offender, inasmuch as, another FIR of similar nature is pending against him and that the prosecution evidence is yet to commence and thus, the petitioner does not deserve the concession of bail.

I have heard the learned counsel for the parties.

Though the recovery allegedly effected in the present case falls under the commercial quantity, yet the fact remains that the petitioner has been in custody since 18.08.2020. Neither any recovery was effected from the petitioner nor he was arrested at the spot. The petitioner was indicted on the basis of the disclosure statement of co-accused, namely, Kuldeep and Satpal.

As per the learned counsel for the petitioner, in another NDPS case, the petitioner is on bail and the same was registered on 29.07.2020. Charges are yet to be framed and the prosecution evidence is to commence. 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.

The Hon'ble Apex Court in Chet Ram @Ram Veer's case (supra) has held as under:-

'Apparently the petitioner was acquitted in the case where he was charged with committing the offence under Section 307 IPC. As far as the other FIR alleging offences under the Narcotic Drugs and Psychotropic Substances Act, 1985 is concerned, he has been enlarged on bail.

Considering the circumstances especially that he has undergone detention for 3 and a half years and the conclusion of trial is most likely in the distant future, he is

enlarged on bail subject to such conditions as the trial court deems appropriate to impose on him.

Special leave petition is allowed in the above terms.

Pending application(s), if any, are disposed of.

In view of the above and without commenting anything on the merits of the case, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

29.05.2023

(HARNARESH SINGH GILL)

Aman Jain

JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>