

CRM-M-29105-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

218

CRM-M-29105-2023
Date of decision: 20.11.2023

BITTU

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Kartar Singh Malik, Advocate,
for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

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.22 dated 24.01.2019, registered under Section 20 NDPS Act, 1985, at Police Station Rohtak Civil Lines, District Rohtak.

2. Reply dated 18.09.2023 by way of affidavit of the Vivek Kundu, HPS, Deputy Superintendent of Police, Rohtak, filed in the Registry, is taken on record.

3. It is submitted by the counsel for the petitioner that the case against the petitioner is totally concocted and fabricated. The petitioner is not involved in the crime at all. Though the alleged recovery of contraband effected in the present case, is above the commercial quantity, however, the petitioner has been in custody since 24.01.2019. The investigation of the case is already over. The petitioner is not required for any investigation purposes. The prosecution has examined only 03 witnesses, out of 10 witnesses. Since the prosecution has been totally inefficient and lacks in

CRM-M-29105-2023

due promptitude in completion of the prosecution evidence, therefore, liberty of the petitioner cannot be left at the mercy of the prosecution. Hence, the petitioner deserves to be released on bail pending trial. Learned counsel for the petitioner has relied upon the judgments rendered by the Hon'ble Supreme Court in the cases of *Nitish Adhikary @ Bapan Vs. The State of West Bengal* vide order dated 01.08.2022 passed in *SLP (Criminal) No.5769-2022*; *Mohd. Muslim @ Hussain Vs. State (NCT of Delhi), 2023 AIR (Supreme Court) 1648* and another judgment rendered in *Md. Hasanuzzaman Vs. State of West Bengal & Ors, SLP (Crl.) No.3221 of 2023* vide order dated 04.05.2023, to buttress his arguments.

4. On the other hand, learned State Counsel, on instructions from ASI Rampal, submits that there is a huge recovery of contraband from the petitioner. There is another case against the petitioner as well, under the NDPS Act itself. Therefore, the petitioner does not deserve the concession of bail. However, it is not disputed that the petitioner is in custody since 24.01.2019 and that only 03 witnesses, out of 10 witnesses, have been examined, so far.

5. In view of 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.

20.11.2023

parveen kumar

**(RAJBIR SEHRAWAT)
JUDGE**

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No