

IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH

224

CRM-M-29834-2023 (O&M)

Date of Decision: 28.08.2023

NINDER SINGH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Puneet Kumar Bansal, Advocate
for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

HARNARESH SINGH GILL, J.(Oral)

Prayer in this petition is for grant of regular bail to the petitioner in case bearing FIR No.82 dated 02.07.2022, registered under Section 22 of the NDPS Act and Section 29 of the NDPS Act (added later on), at Police station Kot Isse Khan, District Moga.

Learned counsel for the petitioner submits that the petitioner was not named in the FIR; that the petitioner was indicted on the basis of the disclosure statement of co-accused, namely, Gurcharan Singh @ Jyoti, from whom 320 Etirelax tablets was recovered, which falls under a commercial quantity; that no recovery was effected from the petitioner and that the challan has been presented and out of total 13 prosecution witnesses, none has been examined, so far. He further submits that, at one point of time, the petitioner was declared as a proclaimed offender; that, thereafter, the petitioner himself surrendered before the Court below on

30.01.2023 and since then he has been in custody and that there is no other case registered and/or pending against the petitioner, at least of a similar nature.

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. He, however, submits that the allegation against the petitioner is that he had sold 320 tablets to the co-accused, which falls under the commercial quantity and Section 37 of the NDPS Act bars grant of bail to the accused person, in case of a commercial quantity. He further submits that, at one point of time, the petitioner was declared as a proclaimed offender and that the prosecution evidence is yet to commence and thus, the petitioner be not granted the concession of regular bail.

I have heard the learned counsel for the parties.

The petitioner has been in custody since 30.01.2023. The petitioner was not named in the FIR and has been indicted on the basis of the disclosure statement of co-accused, from whom the recovery was effected. No recovery was effected from the petitioner. There is no other case registered and/or pending against the petitioner. Prosecution evidence is yet to commence. In such circumstances, the 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.

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.

28.08.2023

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No