

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-30541-2023 (O&M)
Date of decision: 09.08.2023

Amit Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Raj Kumar Gupta, Advocate and
Mr. Vikas Dahiya, Advocate for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

1. Through this third petition, the petitioner seeks regular bail in case bearing FIR No.95 dated 21.09.2019, registered at Police Station Special Task Force, STF Wing (Phase-4), Mohali, under Sections 21 and 29 NDPS Act, 1985. The earlier two bail petitions were dismissed as withdrawn on 25.11.2020 and 01.09.2021 respectively.
2. Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case. Though the alleged recovery of 2.5 kg of *Heroin* effected from the petitioner and co-accused falls under the commercial quantity, but the fact remains that the petitioner has been in custody since 23.09.2019 i.e. more than 03 years and 10 months, and similarly situated co-accused, namely, Harsimran Singh @ Simran has since been granted the concession of regular bail by this Court, vide order dated 11.05.2023 (Annexure P-2). So far as another case registered against the

petitioner, under the NDPS Act, is concerned, the same pertains to the recovery of non-commercial quantity and triable by a Magistrate, he has since been enlarged on bail therein. Remaining 04 prosecution witnesses are yet to be examined.

3. In support of his contentions, learned counsel for the petitioner relies upon the order dated 15.03.2023 passed by Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No. 1166-2023 titled as 'Chet Ram @ Ram Veer Vs. Union of India'.

4. 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, but submits that the recovery effected from the petitioner falls under the commercial quantity and that Section 37 of the NDPS Act bars the grant of bail to the accused in case of commercial quantity. The petitioner is a habitual offender and is involved in another case under the NDPS Act. Some material witnesses are yet to be examined.

5. I have heard the learned counsel for the parties.

6. Though the recovery effected from the petitioner and co-accused falls under the commercial quantity, yet the fact remains that as per the custody certificate, the petitioner has been in custody for the last more than 03 years 10 months; that as far as another case under NDPS Act is concerned, the petitioner is on bail and the same pertains to the non-commercial quantity and triable by the Magistrate. Remaining 04 prosecution witnesses are yet to be examined. Similarly situated co-accused is already on bail. Therefore, the

conclusion of the trial would take time. Hence, no useful purpose would be served by keeping the petitioner behind the bars.

7. The Hon'ble Supreme Court in Chet Ram @ Ram Veer, while granting the benefit of bail to the petitioner therein, has held as under:

“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.”

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

(HARNARESH SINGH GILL)
JUDGE

09.08.2023
Mangal Singh

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No