

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

211

CRM-M-32012-2022 (O&M)
Date of decision: 09.08.2023

BALWINDER SINGH @ BILLA

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Karanvir Singh Khehar, Advocate for the petitioner.
Mr. Gaurav Garg Dhuriwala, Addl. AG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

1. Through this second petition, the petitioner seeks regular bail in case bearing FIR No.63 dated 31.07.2019, registered under Sections 22 and 25 of the NDPS Act and Section 473 IPC, at Police Station Majri, District SAS Nagar, Punjab.
2. Learned counsel for the petitioner submits that there were three accused in the present case; that though the recovery effected in the present case falls under the commercial quantity but the fact remains that the petitioner has been in custody for the last 04 years and 01 month and co-accused, namely, Amrik Singh, has already been granted the concession of bail by this Court on 16.01.2020 and some of the prosecution witnesses are yet to be examined; that as far as other cases registered and/or pending against the petitioner are concerned, in the said cases, the petitioner has either been acquitted or on bail or cancellation report had been filed and in other

cases pending under the NDPS Act, the petitioner is on bail and that he seeks parity with co-accused Amrik Singh.

3. In support of his case, learned counsel for the petitioner relies upon the order dated 16.01.2012 passed by the Hon'ble Supreme Court in 'Maulana Mohd. Amir Rashadi Vs. State of U.P. and another', 2012 (1) RCR (Criminal) 586
4. On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that recovery effected in the present case, falls under commercial quantity and that Section 37 NDPS Act bars the grant of bail to the accused in case of commercial quantity. While granting bail to co-accused Amrik Singh with whom the petitioner is seeking parity, this Court was not properly assisted. The petitioner is a habitual offender and is also involved in other cases. It is further submitted that the prosecution witnesses are yet to be examined. He does not dispute the custody period of the petitioner.
5. I have heard the learned counsel for the parties.
6. Though the recovery effected in the present case falls under the commercial quantity but the fact remains that the petitioner has been in custody for the last 04 years and 01 month, co-accused, namely, Amrik Singh, has already been granted the concession of bail by this Court on 16.01.2020 and some of the prosecution witnesses are yet to be examined. In other cases, the petitioner is 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. 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 his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

09.08.2023

Mangal Singh

(HARNARESH SINGH GILL)

JUDGE

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