

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

234

CRM-M-31163-2023O&M)
Date of decision: 31.07.2023

Happy

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Nirmal Singh, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

The petitioner has filed this second petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No. 51 dated 29.01.2020 registered under Sections 15 (Sections 27A and 25 added later on) of the NDPS Act, at Police Station Sadar Thanesar, District Kurukshetra.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case; that though the alleged recovery of 135 kg. of poppy straw effected from the truck, which was being driven by co-accused Rajbir Singh @ Chhotu falls under the commercial quantity but the fact remains that the petitioner was the cleaner of the said truck; that out of three accused two, including the Driver, have already been enlarged on bail; that the petitioner has been in custody for the last 02 years, 11 months and 27 days; that there is no other case under the NDPS Act against the petitioner; that as far as other cases registered under Sections 302, 201, 34

IPC and the Arms Act, the petitioner is on bail and that out of 25 prosecution witnesses, only 14 have been examined so far.

In support of his case, learned counsel for the petitioner relies upon the order 04.05.2023, passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No(s).3221/2023, titled as 'Hasanujjaman & Ors Vs. The State of West Bengal'.

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 and the fact that there is no other case pending or registered against the petitioner under the NDPS Act. She, however, submits that the recovery effected in the present case 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. She further submits that the material witnesses are yet to be examined.

I have heard the learned counsel for the parties.

Though the recovered contraband in the present case, falls under the commercial quantity, yet the fact remains that the petitioner was a Cleaner of the truck in question and he has been in custody for the last 02 years, 11 months and 27 days. There is no other case under the NDPS Act against the petitioner and in other cases registered under Sections 302, 201, 34 IPC and the Arms Act, the petitioner is on bail. Remaining 11 prosecution witnesses are yet to be examined and two co-accused are on bail. 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.

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.

(HARNARESH SINGH GILL)
JUDGE

31.07.2023
Mangal Singh

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