

CRM-M-34801-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: 11.08.2023

SHARANJIT SINGH

...Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Gurpal Singh Sandhu, Advocate and
Mr. Arshdeep Singh Brar, Advocate,
for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

1. Through this petition, the petitioner seeks regular bail in case FIR No.58 dated 27.05.2021, registered at Police Station Arni Wala, District Fazilka, under Sections 22 and 29 NDPS Act, 1985.

2. As per the prosecution version, recovery of 2700 intoxicating tablets had been effected from the petitioner and co-accused, namely, Ashan Kumar @ Pappu.

3. Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that though extent of intoxicating tablets allegedly recovered in the present case, falls under commercial quantity, yet the fact remains that the petitioner has been in custody since 29.05.2021 and that out of 09 prosecution witnesses, only 01 witness has been examined so far. It is further submitted that the aforesaid co-accused has since been granted the concession of regular bail by a

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Coordinate Bench, vide order dated 31.05.2023 passed in CRM-M-18585-2023, and that there is no other case registered or pending against the petitioner, under the NDPS Act. Furthermore, the petitioner stands acquitted in two cases registered against him, under the provisions of IPC. In support of his contentions, learned counsel relies upon the orders dated 01.08.2022 passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No.5769-2022, titled as 'Nitish Adhikary @ Bapan Vs. State of West Bengal', and dated 22.08.2022 passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No.5530-2022, titled as 'Mohammad Salman Hanif Shaikh Vs. State of Gujarat'.

4. On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that recovery of intoxicating tablets 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. It is further submitted that material witnesses are yet to be examined.

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

6. Indisputably, extent of intoxicating tablets recovered in the present case, falls under commercial quantity, but the fact remains that the petitioner has been in custody since 29.05.2021. The prosecution witnesses are yet to be examined. Trial is unlikely to conclude any time soon. There is no other case registered or pending against the petitioner, at least of a similar nature. As stated above, the co-accused has already been bailed out.

7. The Hon'ble Supreme Court in Mohammad Salman Hanif

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Shaikh's case (supra), had held as under:-

"We are inclined to release the petitioner on bail only on the ground that he has spent about two years in custody and conclusion of trial will take some time.

Consequently, without expressing any views on the merits of the case and taking into consideration the custody period of the petitioner, this special leave petition is accepted and the petitioner is ordered to be released on bail subject to his furnishing the bail bonds to the satisfaction of the Special Judge/ concerned Trial Court.

The special leave petition is, accordingly, disposed of in the above terms.

Pending application(s), if any, shall also stand disposed of."

8. The Hon'ble Supreme Court in Nitish Adhikary @ Bapan's case (supra), while granting the benefit of bail to the petitioner therein, has held as under:

"The petitioner seeks enlargement on bail in F.I.R. No. 612 of 2020 dated 17.10.2020 filed under Section 21 (c) and 37 of the NDPS 2 Act, registered at Police Station Bongaon, West Bengal.

During the course of the hearing, we are informed that the petitioner has undergone custody for a period of 01 year and 07 months as on 09.06.2022. The trial is at a preliminary stage, as only one witness has been examined. The petitioner does not have any criminal antecedents.

Taking into consideration the period of sentence undergone by the petitioner and all the attending circumstances but without expressing any views in the merits of the case, we are inclined to grant bail to the petitioner.

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The petitioner is accordingly, directed to be released on bail subject to him furnishing bail bonds to the satisfaction of the Trial Court.

The Special Leave Petition is disposed of on the aforesaid terms.

Pending application(s), if any, shall stand disposed of.”

9. In view of the above, this Court finds that no useful purpose would be served by keeping the petitioner behind the bars. Resultantly, without commenting anything on the merits, 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 and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

11.08.2023

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No