

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

203

**CRM-M-34720-2022 (O&M)
Date of decision: 22.02.2023**

Pardeep

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Ms. Manpreet Ghuman, Advocate for the petitioner.

Mr. Rohit Arya, DAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Through this second petition, the petitioner seeks regular bail in case bearing FIR No.486 dated 31.12.2020, registered at Police Station Sadar Jind, District Jind, under Sections 21 and 29 NDPS Act, 1985.

The status report filed on behalf of the respondent-State is already on record.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case; that though the alleged recovery effected from the tool box of the motor-cycle, which belongs to the petitioner, falls under the commercial quantity, but the fact remains that the petitioner has been in custody since 31.12.2020 and he is not involved in any other case under the NDPS Act; that co-accused from whom 202 grams of smack was recovered is still in the custody and that out of 17 prosecution witness, only

05 have been completely examined so far. In support of her contentions, the learned counsel for the petitioner relies upon the judgment dated 04.08.2022, delivered by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No.4173- 2022, titled as 'Shariful Islam @ Sarif Vs. The State of West Bengal.

Learned State counsel, while vehemently opposing the prayer for bail, submits that the recovered contraband falls under the commercial quantity. The alleged motorcycle used in the crime belongs to the petitioner. However, he does not dispute the custody period of the petitioner and that there is no other case under the NDPS Act against the petitioner. He submits that some of the prosecution witnesses are yet to be examined.

I have heard the learned counsel for the parties.

Though the recovery effected from the toolbox of the motorcycle of the petitioner falls under the commercial quantity but the fact remains that the petitioner has been in custody since 31.12.2020 and he is not involved in any other case under the NDPS Act. Out of 17 prosecution witnesses, only 05 have been completely examined and remaining are yet to be examined. Therefore, the conclusion of the trial would take time. Hence, 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.

It is also clearly stipulated that the petitioner would be required to remain present on all dates fixed by the trial Court and his counsel will not seek unnecessary adjournments and that if the petitioner tries to delay the trial or involves him into another case of a similar nature, the trial Court would put back him into incarceration.

(HARNARESH SINGH GILL)
JUDGE

22.02.2023
Mangal Singh

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