

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-33286-2023 (O&M)
Date of decision: 19.07.2023

LAKHWINDER SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Rishu Mahajan, Advocate for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

The petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No. 94 dated 04.11.2021 registered under Sections 21-C, 29 of the NDPS Act, at Police Station Valtoha, District Tarn Taran.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case; that as alleged, co-accused Gurlal Singh picked up two plastic bottles containing total 950 grams of *Heroin* from the Border and the petitioner and co-accused were working across the fences; that no recovery has been effected from the petitioner, who has been in custody for the last 01 year and 08 months; that out of 16 prosecution witnesses, none has been examined so far and that there is no other case registered or pending against the petitioner.

Learned State counsel, while vehemently opposing the prayer for bail, submits that the recovery effected from co-accused Gurlal Singh, falls under the commercial quantity and as per the call details record, the petitioner was in regular touch with co-accused Gurlal Singh and smugglers across the

Border. Section 37 of the NDPS Act bars the grant of bail to the accused in case of commercial quantity. However, he does not dispute the custody period of the petitioner and that there is no other case against the petitioner, but the material witnesses are yet to be examined.

In support of his case, learned counsel for the petitioner relies upon the orders 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'.

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 no recovery has been effected from the petitioner and the petitioner has been in custody for the last more than 01 year and 08 months and that the prosecution witnesses are yet to be examined. In such circumstances, trial of the case would take a long time to conclude. There is no other case registered or pending against the petitioner, at least of a similar nature. 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

19.07.2023

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No