

CRM-M-39388-2021

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-39388-2021 (O & M)****Date of decision: 11.04.2023**

Gurmeet Singh

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Amjad Khan, Advocate,
for the petitioner.

Ms. Ramta Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.42 dated 01.03.2021 under Section 22 of the NDPS Act, 1985 registered at Police Station Sadar Ludhiana, District Police Commissionerate, Ludhiana.

2. The brief facts of the case are that secret information was received by the investigating agency that Gurmeet Singh (petitioner) was in the business of supplying of drug tablets to his customers and if a raid was conducted, he could be arrested alongwith a heavy quantity of drugs.

Based on the aforementioned allegation, the FIR in question came to be registered. Subsequently, the petitioner was apprehended and the recovery of 1150 tablets containing the salt of Alprazolam came to be effected from him.

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3. The learned counsel for the petitioner contends that no independent witness had been joined at the time of the alleged recovery. No Gazetted Officer or Magistrate was called at the spot. There was a violation of Section 42 of the NDPS Act, the compliance of which was mandatory in nature. As the petitioner was in custody since 01.03.2021 and only 03 of the 14 prosecution witnesses had been examined so far, the petitioner was entitled to the concession of bail in view of the judgment of the Hon'ble Supreme Court in 'Nitish Adhikary @ Bapan versus The State of West Bengal, SLP (Crl.) Nos. 5769/2022 arising out of judgment and order dated 04.05.2022 in CRM (NDPS) No.442-2022 decided on 01.08.2022 and followed by this Court in the case of 'Balraj Singh versus State of Punjab (CRM-M-57386-2022 decided on 14.12.2022)'.

4. The learned counsel for the State, however, contends that the nature of the allegations levelled against the petitioner did not entitle him to the grant of bail, moreso, when commercial quantity of contraband has been recovered from him. He, however, does not dispute that the petitioner is a first-time offender, in custody since 01.03.2021 and only 03 of the 14 prosecution witnesses examined so far.

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

6. The Hon'ble Supreme Court in the case of Nitish Adhikary @ Bapan Vs. The State of West Bengal SLP (Crl.) Nos.5769/2022 Decided on 01.08.2022 held as under:-

“As per the office report dated 29.07.2022, copy of the show cause notice along with Special Leave Petition was supplied to the Standing Counsel for the State of West Bengal and separate notice has been served on the State

also. However, no one has entered appearance on their behalf.

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.

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 aforestated terms.

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

This Court in the case of **Balraj Singh Versus State of Punjab, CRM-M-57386-2022, decided on 14.12.2022** has followed the dictum laid down by the Hon'ble Supreme Court and granted bail to the petitioner therein after he had undergone total custody of 01 year and 06 months. In the present case, in view of the delay in the conclusion of the Trial, the conditions envisaged under Section 37 of the NDPS Act can be relaxed to an extent in view of the right to a speedy trial as envisaged under Article 21 of the Constitution of India.

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7. As the petitioner is in custody since 01.03.2021, is a first-time offender and only 03 of the 14 prosecution witnesses have been examined so far, the further incarceration of the petitioner is not required.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner-Gurmeet Singh is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any case other than the present one.

10. In addition, the petitioner (or someone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

April 11, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No