

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

214-A

CRM-M-41538-2021 (O&M)

Date of Decision: 21.07.2023

KARAMVEER @ PAL

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Veneet Sharma, Advocate
for the petitioner.

Ms. Ankita Ahuja, AAG Haryana.

HARNARESH SINGH GILL, J.(Oral)

Through this petition, the petitioner seeks regular bail in case bearing FIR No.7 dated 04.01.2021, registered under Section 20 of the NDPS Act and Sections 420, 467, 468, 471 and 120-B IPC (added later on) at Police Station Kanina, District Mahendergarh.

Learned counsel for the petitioner submits that the petitioner has falsely been involved in the present case; that, as per the prosecution version, 38 bags containing 85.320 kg ganja was recovered from the petitioner; that out of the said bags, two bags weighing 2.240 kg each were separated as samples; that on receipt of the samples, objection was raised by the Office of Chemical Examiner and that the provisions of Section 50 of the NDPS Act have not been complied with in the present case. He further submits that the alleged recovery effected in FIR No.3 dated 05.01.2021 was effected from the house, which was taken on rent

by co-accused, namely, Milan and Pardeep; that the petitioner has nothing to do with the said recovery and that the petitioner has been in custody since 04.01.2021. Still further, it is submitted that the recovery effected in both the FIRs, is a part of the present case only and that out of total 21 prosecution witnesses, only 2 have been examined so far.

In support of his contentions, learned counsel for the petitioner relies upon the order dated 16.03.1993 passed by the Hon'ble Apex Court in Gaunter Edwin Kircher vs State of Goa, 1993 AIR (Supreme Court) 1456.

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. She, however, submits that the recovery effected in the present case is a commercial quantity and Section 37 of the NDPS Act bars the grant of bail to the accused persons involved in a commercial quantity case. She further submits that the petitioner is a habitual offender and facing one more case under the NDPS Act and that material witnesses are yet to be examined and thus, the petitioner be not granted the concession of regular bail.

I have heard the learned counsel for the parties.

The petitioner has been in custody since 04.01.2021. Recovery in FIR No.3 dated 05.01.2021 was effected from the rented accommodation of the co-accused, which as per the learned counsel for the petitioner is a part of the present case only. Most of the prosecution witnesses are yet to be examined. In such circumstances, the 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 and without commenting anything on the merits of the case, 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/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

21.07.2023

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

Whether speaking/reasoned

Whether reportable

:

:

Yes/No

Yes/No