

IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH

213

CRM-M-39082-2022 (O&M)

Date of Decision: 02.08.2023

HARWINDER SINGH @ KAKA

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. HS Dhindsa, Advocate
for the petitioner.

Mr. CL Pawar, Additional AG Punjab.

HARNARESH SINGH GILL, J.(Oral)

Through this second petition, the petitioner seeks regular bail in case bearing FIR No.211 dated 09.10.2021, registered under Section 22(c) of the NDPS Act, at Police Station Sadar, District Sri Muktsar Sahib.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that the alleged recovery effected in the present case, falls under the commercial quantity; that the petitioner has been in custody since 09.10.2021; that there is no other case registered and/or pending against the petitioner and that out of total 16 prosecution witnesses, one has been examined so far.

In support of his contentions, learned counsel for the petitioner relies upon the order 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, on 01.08.2022.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that the contraband recovered in the present case, falls under the commercial quantity and the case of the petitioner is hit by the bar contained under Section 37 NDPS Act. However, he does not dispute the custody period of the petitioner. He further submits that since the material witnesses are yet to be examined, the petitioner be not granted the concession of regular bail.

I have heard the learned counsel for the parties.

After investigation, challan was filed and thereafter, the charges were framed. Prosecution evidence is yet to commence. The petitioner has been in custody since 09.10.2021. There is no other case registered and/or pending against the petitioner, at least of a similar nature. All these facts persuade this Court to grant bail to the petitioner despite the rigors of Section 37 NDPS Act in the present case. 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 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.

02.08.2023

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*