

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

214

CRM-M-40269-2022 (O&M)

Date of Decision: 21.07.2023

MILAN

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. PS Sekhon, 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, at Police Station Kanina, District Narnaul.

Learned counsel for the petitioner submits that the petitioner was not named in the FIR; that neither the petitioner was apprehended at the spot nor any recovery was effected from him; that on 04.01.2021, the alleged recovery of 85.320 kg Ganja was effected from the co-accused, namely, Karambir; that on 08.01.2021, disclosure statement of said Karambir was recorded and on the basis of same, the petitioner along with one Pardeep have been indicted in the present case and that the petitioner has been in custody since 04.02.2022. He further submits that, as per the prosecution version, on the basis of the disclosure statement of

the petitioner, recovery of 55/56 kg ganja was effected from the house, which was taken on rent by the petitioner and co-accused, namely, Pardeep. He further submits that, though the said recovery of 55/56 kg ganja was a part of the present case only, yet qua the same, another FIR No.3 dated 05.01.2021 under Section 20-B/61/85 of the NDPS Act, has been registered against the petitioner and the co-accused and that out of total 21 prosecution witnesses, only 2 have been examined, so far.

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 04.02.2022. No recovery was effected from the conscious possession of the petitioner. The petitioner was indicted on the basis of the disclosure statement of the co-accused recorded on 08.01.2021 i.e. after 5 days of the occurrence. As per the learned counsel for the petitioner, recovery qua which FIR No.3 dated 05.01.2021 was registered, 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	:	Yes/No
Whether reportable	:	Yes/No