

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

203

CRM-M-40029-2022 (O&M)

Date of decision: 24.02.2023

Rakesh @ Rakesh Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Shakti Mehta, Advocate for the petitioner.

Mr. Rohit Arya, DAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Through this second petition, the petitioner seeks regular bail in case bearing FIR No.148 dated 07.06.2020, registered under Section 15 of the NDPS Act, at Police Station Nissing, District Karnal. The first petition was dismissed as withdrawn on 17.02.2022.

Status reports by way of affidavit dated 17.02.2023 of the Deputy Superintendent of Police, Karnal-II, District Karnal on behalf of respondent already filed in the is taken on record.

Learned counsel for the petitioner submits that the petitioner along with co-accused, Buta Singh @ Butta Singh, was apprehended in a Canter with alleged 270 kg. of *Poppy husk*; that the Canter is owned by one Harish Kumar; that the charges were framed on 01.03.2021, but out of 11 prosecution witnesses, only 01 has been examined so far; that similarly placed co-accused, Buta Singh @ Butta Singh, has already been granted the concession of bail vide order dated 09.08.2022 passed by this Court and even at the stage of granting bail to the said co-accused, only 01 prosecution

witness has been examined; that the petitioner is not involved in any other case under the NDPS Act and that he has has been in custody since 07.06.2020.

In support of his contentions, learned counsel for the petitioner relies upon the judgment delivered by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No.4173/2022 titled 'Shariful Islam @ Sarif vs The State of West Bengal' on 04.08.2022.

Learned State counsel, while vehemently opposing the prayer for bail, submits that the petitioner and co-accused were apprehended in a Canter with 270 Kg. of Poppy Husk; that they are involved in the inter-State smuggling of Puppy Husk and that the material witnesses are yet to be examined. However, he does not dispute the custody period of the petitioner and that there is no other case under the NDPS Act against the petitioner. The factum of examination of only 01 prosecution witness out of 11 witnesses, has also not been disputed.

I have heard the learned counsel for the parties.

The petitioner has been in custody since 07.06.2020. The recovery has already been effected. Similarly situated co-accused has already been enlarged on regular bail. Moreover, there is no other case against the petitioner under the NDPS Act. Remaining 10 prosecution witnesses are yet to be examined. Therefore, the conclusion of the trial would take time. Hence, 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.

It is also clearly stipulated that the petitioner would be required to remain present on all dates fixed by the trial Court and his counsel will not seek unnecessary adjournments and that if the petitioner tries to delay the trial or involves himself into another case of a similar nature, the trial Court would put back him into incarceration.

(HARNARESH SINGH GILL)
JUDGE

24.02.2023
Mangal Singh

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No