

IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH

206

CRM-M-40276-2022 (O&M)

Date of Decision: 19.04.2023

SUCHA SINGH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. JS Dhaliwal, Advocate
for the petitioner.

Ms. Ishma Randhawa, Additional AG Punjab.

HARNARESH SINGH GILL, J.(Oral)

Through this second petition, the petitioner seeks regular bail in case bearing FIR No.18 dated 06.02.2021, under Sections 22 and 29 of the NDPS Act, registered at Police Station Jhunir, District Mansa, the first one having been dismissed as withdrawn on 12.07.2022.

Learned counsel for the petitioner submits that the petitioner was indicted in the present case on the basis of the disclosure statement; that no recovery was effected from the petitioner; that the petitioner has been in custody since 09.03.2020; that challan has already been presented and that out of 15 prosecution witnesses, only two have been examined, so far. Thus, a prayer for grant of regular bail is made.

In support of his contentions, learned counsel for the petitioner relies upon the order dated 24.01.2023 passed by this Court in CRM-M-51621-2022 titled as Lakhanpal @ Dhabi vs State of Haryana.

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 petitioner is a habitual offender, inasmuch as, six more cases, including four under the NDPS Act, are registered and/or pending against him. She further submits that in four cases (including two under the NDPS Act), the petitioner stands convicted. On this premise, learned State counsel prays for dismissal of the present bail petition.

In support of her contentions, learned State counsel relies upon the judgment delivered by the Hon'ble Apex Court on 19.07.2022 in Criminal Appeal Nos. 1001-1002 of 2002 - Narcotics Control Bureau vs Mohit Aggarwal and the orders dated 09.02.2023 passed by a Coordinate Bench of this Court in CRM-M-29577-2022 - Tarlochan Singh @ Tota vs State of Punjab and dated 23.01.2023 passed in CRM-M-51884-2022- Gurpreet Singh Vs State of Punjab.

I have heard the learned counsel for the parties.

In Mohit Aggarwal's case (supra), while dealing with the stringent provisions of Section 37 of the NDPS Act, the Hon'ble Supreme Court, has held as under:-

“18. In our opinion the narrow parameters of bail available under Section 37 of the Act, have not been satisfied in the facts of the instant case. At this stage, it is not safe to conclude that the respondent has successfully demonstrated that there are reasonable grounds to believe that he is not guilty of the offence alleged against him, for him to have been admitted to bail. The length of the period of his custody or the fact that the charge-sheet has been filed and the trial has commenced are by themselves not

considerations that can be treated as persuasive grounds for granting relief to the respondent under Section 37 of the NDPS Act.

19. As a result of the aforesaid discussion, the present appeals are allowed and the impugned order releasing the respondent on post-arrest bail, is quashed and set aside. The bail bonds of the respondent are cancelled and he is directed to be taken into custody forthwith."

A Coordinate Bench of this Court in the orders passed in the Tarlochan Singh @ Tota's and Gurpreet Singh's cases (supra), relying upon the judgments of the Hon'ble Apex Court in Mohit Aggarwal's (supra) and Union of India (NCB) etc. vs. Khalil Uddin etc., 2022(4) RCR(Criminal) 984, dismissed the bail petitions, holding that mere long custody period cannot be a ground for granting bail when twin conditions of Section 37 of the NDPS Act, are not fulfilled.

As noticed above, the petitioner is facing 6 more cases, out of which four are under the NDPS Act. In two other NDPS cases, the petitioner has already been convicted and the remaining two are under trial. Thus, keeping in view the fact that the petitioner is a habitual offender, he does not deserve concession of regular bail. Moreover, the nature of the offences committed by the petitioner is sufficient enough to hold that if released on bail, he would again involve himself in similar crime.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

19.04.2023

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No