

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

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CRM-M-42363-2022 (O&M)

Date of Decision: 16.01.2023

CHARANJIT SINGH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Rajinder Singh Bhatta, 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.113 dated 09.09.2019, registered at Police Station Basti Bawa Khel, District Jalandhar, under Sections 21 and 29 NDPS Act, 1985.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that the petitioner was arrested after a month from registration of the FIR; that on the basis of his own disclosure statement, one kilogram Heroin was recovered; that the petitioner has been in custody since 11.10.2019 and that one of co-accused, namely, Karnbir Singh @ Karambir Singh has since been granted the concession of regular bail by this Court, vide order dated 17.11.2021. He further submits that as far as FIR No.100 dated 24.08.2020, under Sections 21 and 29 NDPS Act, registered against the

petitioner, is concerned, he along with co-accused, namely, Sajan was found innocent by the Judge, Special Court, Ferozepur. He further submits that though the challan was presented way back on 03.11.2020, yet no prosecution witness has been examined, till date.

In support of his contentions, learned counsel for the petitioner relies upon the judgments dated 22.08.2022 passed by Hon'ble Supreme Court in Mohammad Salman Hanif Shaikh Vs. The State of Gujarat, Special Leave to Appeal (Crl.) No.5530-2022 and dated 07.02.2020 passed in Chitta Biswas Alias Subhas Vs. The State of West Bengal, Criminal Appeal No.245/2020.

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 petitioner and his father are habitual offenders and that commercial quantity of Heroin was recovered from the petitioner and that too on his own disclosure statement.

I have heard the learned counsel for the parties.

Though the recovery effected in the present case is a commercial quantity, yet the fact remains that the petitioner has been in custody since 11.10.2019. In FIR No.100, the petitioner was found innocent. Co-accused has already been enlarged on bail. Challan was presented on 03.11.2020 but none of the prosecution witness has been examined, so far. 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.

The Hon'ble Supreme Court in Mohammad Salman Hanif Shaikh's case (supra), has held as under: -

"We are inclined to release the petitioner on bail only on the ground that he has spent about two years in custody and conclusion of trial will take some time.

Consequently, without expressing any views on the merits of the case and taking into consideration the custody period of the petitioner, this special leave petition is accepted and the petitioner is ordered to be released on bail subject to his furnishing the bail bonds to the satisfaction of the Special Judge/ concerned Trial Court.

The special leave petition is, accordingly, disposed of in the above terms.

Pending application(s), if any, shall also stand disposed of."

In Chitta Biswas Alias Subhas's case (supra), the Hon'ble Apex Court, has held as under:-

"Leave granted.

This appeal arises out of the final Order dated 30.7.2010 passed by the High Court of Calcutta in CRM No.6787 of 2019.

The instant matter arises out of application preferred by the appellant under Section 439 Cr.P.C. seeking bail in connection with Criminal Case No.146 of 2018 registered with Taherpur Police Station for offence punishable under Section 21-C of the Narcotic Drugs and Psychotropic Substances Act, 1985.

According to the prosecution, the appellant was found to be in possession of narcotic substance i.e. 46 bottles of phensydryl cough syrup containing codeine mixture above commercial quantity.

The appellant was arrested on 21.07.2018 and continues to be in custody. It appears that out of 10 witnesses cited to be examined in support of the case of prosecution four witnesses have already been examined in the trial.

Without expressing any opinion on the merits or demerits of the rival submissions and considering the facts and circumstances on record, in our view, case for bail is made out. We therefore, allow this appeal and direct as under:

(a) Subject to furnishing bail bond in the sum of Rs.2 lakhs with two like sureties to the satisfaction of the Judge, Special Court, NDPS Act, Nadia at Krishnagar, the appellant shall be released on bail.

(b) The Special Court may impose such other conditions as it deems appropriate to ensure the presence and participation of the appellant in the pending trial. With the aforesaid directions, the appeal stands allowed."

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.

16.01.2023

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

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