

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

208

CRM-M-47811-2021 (O&M)
Date of decision: 10.08.2023

Karambir Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sandeep Gors, Advocate for and
Mr. Sultan Singh Gill, Advocate for the petitioner.

Mr. C.L. Pawar, Addl. AG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

1. Through this petition, the petitioner seeks regular bail in case bearing FIR No.136 dated 02.08.2021, registered under Sections 21 and 22 of the NDPS Act, at Police Station Majitha, District Amritsar Rural.
2. The short reply filed on behalf of the respondent-State is already on record.
3. As per the prosecution version, the FIR was registered on a secret information and recovery of 915 intoxicant tablets and 10 grams of *Heroin*, was effected from the dashboard of the car and Rs.68,300/- was effected from co-accused Charanjit Singh.
4. Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that as alleged, the car in question was being driven by the petitioner; that though the recovery effected in the present case falls under the commercial quantity, but the fact remains that the petitioner has been in custody for the last 02 years and 06 days; that

out of 12 prosecution witnesses, only 03 have been examined so far. It is further submitted that there is no other registered or pending case against the petitioner, at least of a similar nature. In support of his contentions, learned counsel relies upon the order dated 01.08.2022 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'.

5. On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that recovery effected in the present case, falls under commercial quantity and that Section 37 NDPS Act bars the grant of bail to the accused in case of commercial quantity. It is further submitted that the material prosecution witnesses are yet to be examined. He does not dispute the custody period of the petitioner.

6. I have heard the learned counsel for the parties.

7. Indisputably, the recovery effected in the present case, falls under commercial quantity, but the fact remains that the petitioner has been in custody for the last 02 years and 06 days. The FIR was registered on a secret information and the recovery was effected from the dashboard of the car alleged to be driven by the petitioner, but no recovery was effected from him. Remaining prosecution witnesses are yet to be examined. Trial is unlikely to conclude any time soon. There is no other case registered or pending against the petitioner, at least of a similar nature.

8. The Hon'ble Supreme Court in Nitish Adhikary @ Bapan, while granting the benefit of bail to the petitioner therein, has held as under:

“The petitioner seeks enlargement on bail in F.I.R. No. 612 of 2020 dated 17.10.2020 filed under Section 21(c) and 37 of the NDPS 2 Act, registered at Police Station Bongaon, West Bengal.

During the course of the hearing, we are informed that the petitioner has undergone custody for a period of 01 year and 07 months as on 09.06.2022. The trial is at a preliminary stage, as only one witness has been examined. The petitioner does not have any criminal antecedents.

Taking into consideration the period of sentence undergone by the petitioner and all the attending circumstances but without expressing any views in the merits of the case, we are inclined to grant bail to the petitioner.

The petitioner is accordingly, directed to be released on bail subject to him furnishing bail bonds to the satisfaction of the Trial Court.

The Special Leave Petition is disposed of on the afore-stated terms.

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

9. In view of the above, this Court finds that no useful purpose would be served by keeping the petitioner behind the bars. Resultantly, 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.

(HARNARESH SINGH GILL)
JUDGE

10.08.2023
Mangal Singh

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