

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

CRM-M-48771-2021
Date of Decision:-**14.02.2023**

MANJEET SINGH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

-.-

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-.-

Present:- Mr. Gurpal Singh Sandhu, Advocate
for the petitioner.

Mr. Chaman Lal Pawar, Addl. A.G. Punjab.

-.-

KARAMJIT SINGH, J. (Oral)

The petitioner has approached this Court seeking grant of regular bail in a case having FIR No.6 dated 18.1.201 registered under Sections 15(c) of NDPS Act at Police Station Jaitu, District Faridkot.

As per the allegations appearing on the record, on 18.1.2021 petitioner-Manjeet Singh was going in a Swift Dezire car No.PB-04-AB-1279 which was followed by a Creta car No.DL1CT-9602 of silver colour and the police officials, who had laid picket, signalled both the said cars to stop and then on checking of the Swift Dezire, which was driven by the petitioner, 80 kgs. of poppy husk was recovered from it while on checking of

the Creta car No.DL1-CT-9602, which was driven by co-accused Jagmeet Singh, 120 kgs. of poppy husk was recovered from the said car.

The counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and is in custody for the last more than 2 years and is having no criminal history under the NDPS Act. The counsel for the petitioner further submits that the trial Court is not progressing ahead as till date only 8 prosecution witnesses have been examined out of total 27 prosecution witnesses. The counsel for the petitioner further submits that Division Bench of this Court vide order dated 12.1.2022 passed in **CRM-3773-2019 in CRA-D-198-DB-2017, Bhupender vs. Narcotic Control Bureau** has held that '*in case the accused person is able to make out a case within parameter of Article 21 of the Constitution in view of the custody period, then he deserves the concession of regular bail, even in the face of rigors of Section 37 of the NDPS Act*'.

The counsel for the petitioner further referred to the **SLP(Criminal) No.5769-2022** in a case titled as **Nitish Adhikary @ Bapan vs. The State of West Bengal** wherein vide order dated 1.8.2022, the Hon'ble Supreme Court granted regular bail in a case relating to commercial quantity of contraband as the petitioner therein had undergone custody for a period of 1 year and 7 months.

The present petition is contested by the State counsel, who submits that commercial quantity of poppy husk was recovered from the petitioner and that the trial is in progress and already 8 witnesses are examined on behalf of the prosecution and that rigors of Section 37 of NDPS Act are applicable in the instant case. However, the State counsel has

not disputed the fact that the petitioner is not involved in any other criminal case under the NDPS Act.

I have considered the submissions made by counsel for the parties.

Firstly, it is a debatable point as to whether the recovery effected from Creta car driven by co-accused Jagmeet Singh is to be considered from the conscious possession of the petitioner. So apparently the recovery effected from the car driven by the present petition is 80 kgs. of poppy husk and the same comes under commercial quantity.

The petitioner is in custody for the last more than 2 years and as per the status report dated 20.12.2022 furnished by the trial Court, out of total 27 witnesses, the prosecution has examined 8 witnesses while 2 other witnesses are given up. The Hon'ble Apex Court in **Nitish Adhikary @ Bapan's** case (supra) granted regular bail to the accused therein, who had undergone custody for a period of 1 year and 7 months and was having no criminal antecedents.

The Division Bench of this Court in **Bhupender Singh's** case (supra) had also held that in case the accused person is able to make out a case under the provisions of Article 21 of the Constitution of India, in view of the period of incarceration, then he deserves the concession of regular bail even in the phase of rigors of Section 37 of the NDPS Act.

It is not a case made out by the respondent-State that if released on bail, the petitioner is going to flee from law or hamper the course of trial.

Further, since the trial would take sufficient time, no useful purpose is going to be served by keeping the accused behind the bars for any longer period.

Accordingly the present petitioner is allowed and the petitioner is ordered to be released on bail subject to his furnishing requisite bail and surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

Nothing said hereinabove shall be treated as expression of opinion on the merits of the case.

(KARAMJIT SINGH)
JUDGE

14.02.2023
Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No