

IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH

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CRM-M-44322-2023 (O&M)

Date of Decision: 13.09.2023

RAJA RAM

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Karanjeet Singh Brar, Advocate
for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

HARNARESH SINGH GILL, J.(Oral)

Through this third petition, the petitioner seeks regular bail in case bearing FIR No.128 dated 26.06.2020, registered under Sections 15 and 25 of the NDPS Act, at Police Station Sangat, District Bathinda, the first one having been dismissed as withdrawn on 28.03.2022 and the second been dismissed on merits on 19.04.2023.

Learned counsel for the petitioner submits that after the dismissal of the second bail petition on merits, co-accused, namely, Balbir Singh has been granted the concession of regular bail vide order dated 16.08.2023. He further submits that the petitioner has falsely been implicated in the present case; that it was on the basis of a secret information, the raid was conducted and nobody was named; that nobody was arrested at the spot; that a truck was recovered with 90 kg of poppy husk; that on the basis of the ownership of the truck, co-accused, namely, Balbir Singh, was indicted in the present case and that petitioner and one

Satnam Singh were thereafter nominated as accused being the Driver and Conductor of the said truck. Still further, it is submitted that Satnam Singh has also been granted the concession of bail by a Coordinate Bench of this Court.

Learned counsel for the petitioner further submits that though extent of contraband allegedly recovered in the present case, falls under commercial quantity, yet the fact remains that the petitioner has been in custody since 08.07.2020 i.e. for more than 3 years and 2 months and that out of total 20 prosecution witnesses, only 1 has been examined, so far. It is further submitted that there is no other case registered or pending 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'.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that recovery of contraband 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 material witnesses are yet to be examined and thus, the petitioner be not granted the concession of regular bail.

I have heard the learned counsel for the parties.

Indisputably, extent of contraband recovered in the present case, falls under commercial quantity, but the fact remains that the

petitioner has been in custody since 08.07.2020 i.e. for about three years and 2 months. Raid was conducted on the basis of the secret information and nobody was named. After the dismissal of the second bail petition on merits, co-accused i.e. Balbir Singh (the owner of the truck) has been enlarged on bail. Satnam Singh (the conductor of the truck) has also been enlarged on bail. Most of the 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.

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 aforestated terms.

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

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.

13.09.2023

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>