

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

204

CRM-M-1296-2022 (O&M)

Date of Decision: 02.03.2023

RANJIT SINGH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Ruhani Chadha, Advocate
for the petitioner.

Ms. Ishma Randhawa, Additional AG Punjab.

HARNARESH SINGH GILL, J.(Oral)

Through this third petition, the petitioner seeks regular bail in case bearing FIR No.4 dated 08.01.2021, registered at Police Station Division No.2, District Jalandhar, under Section 18 of the NDPS Act, the earlier two petitions were dismissed as withdrawn on 28.04.2021 and 06.08.2021.

Learned counsel for the petitioner submits that, though, the alleged recovery effected in the present case is marginally above the commercial quantity, yet the fact remains that the petitioner has been in custody since 08.01.2021; that the challan was presented on 30.04.2021; that the charges were framed on 07.07.2021 and that out of total 10 prosecution witnesses, only 1 has been examined so far. He further submits that, as per the zimni order dated 27.01.2023 passed by the learned Judge Special Court, Jalandhar, non-bailable warrants of

prosecution witnesses, namely, ASI Tarsem Lal and ASI Jaswinder Singh, have been issued for 03.03.2023. Still further, it is submitted that as far as another case under the NDPS Act, registered and/or pending against the petitioner is concerned, he was indicted on the basis of the disclosure statement in the said case and is on bail.

In support of his contentions, learned counsel for the petitioner relies upon the orders dated 25.01.2023 and 20.01.2023 passed by Hon'ble Apex Court in Special Leave to Appeal (Crl.) No.6690-2022 titled as Dheeraj Kumar Shukla vs State of Uttar Pradesh and Special Leave to Appeal (Crl.) No.8895-2022 titled as Rajib Dey vs State of West Bengal, respectively and the orders dated 08.12.2022, 18.01.2023 and 14.02.2023 passed by Coordinate Benches of this Court in CRM-M-47098-2022 titled as Satnam Singh @ Satta vs State of Punjab, CRM-M-1902-2023 titled as Chhinder Singh vs State of Punjab and CRM-M-5406-2023 titled as Roshandeem vs State of Punjab, respectively.

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 recovery effected in the present case is on a higher side and is hit by the stringent provisions of Section 37 of the NDPS Act. She further submits that the material witnesses are yet to be examined and that the petitioner is a habitual offender, inasmuch as, one more case of NDPS Act, is registered and/or pending against him, though he is on bail in the said case.

I have heard the learned counsel for the parties.

Though, the alleged recovery effected in the present case is marginally above the commercial quantity, yet the fact remains that the petitioner has been in custody since 08.01.2021. As per the learned counsel for the petitioner, in another case registered against the petitioner, he is on bail. Most of the prosecution witnesses are yet to be examined. 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 Apex Court in 'Dheeraj Kumar Shukla' case (Supra) has held as under:-

3. It appears that some of the occupants of the 'Honda City' Car including Praveen Maurya @ Puneet Maurya have since been released on regular bail. It is true that the quantity recovered from the petitioner is commercial in nature and the provisions of Section 37 of the Act may ordinarily be attracted. However, in the absence of criminal antecedents and the fact that the petitioner is in custody for the last two and a half years, we are satisfied that the conditions of Section 37 of the Act can be dispensed with at this stage, more so when the trial is yet to commence though the charges have been framed.

4. For the reasons stated above but without expressing any views on the merits of the case, the petitioner is directed to be released on bail subject to his furnishing bail bonds to the satisfaction of the Trial Court.

5. It is made clear that in addition to the conditions that may be imposed by the Trial Court, the

petitioner shall be required to appear before the Trial Court on every date of hearing. In case the petitioner is found to be involved in future in any other similar case, the respondent – State shall be at liberty to seek cancellation of bail granted to him by this Court.

6. The Special Leave Petition stands disposed in the above terms.....'.

In the present case, the challan was presented on 30.04.2021 and accordingly, the charges were framed on 07.07.2021. Till today, out of total 10 prosecution witnesses, only 1 has been examined. As per the zimni order dated 27.01.2023 passed by the learned Judge Special Court, Jalandhar, due to repeated non-appearance of the official witnesses, their non-bailable warrants have been issued.

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.

02.03.2023

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

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