

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-48303-2022

Date of Decision:-22.02.2023

Gurmail Singh @ Gurmej Singh @ Babbi.

.....Petitioner.

Versus

State of Haryana.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Parminder Singh Sekhon, Advocate for the Petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

JASJIT SINGH BEDI, J. (ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.179 dated 02.11.2020 under Sections 22-C of the NDPS Act registered at Police Station Guhla, District Kaithal.

2. The brief facts of the case are that secret information was received that the petitioner under the garb of running a grocery shop was selling intoxicating tablets to the addicts and if a raid was conducted the tablets could be recovered from the possession of the petitioner from his shop.

Based on the aforementioned information the instant FIR came to be registered pursuant to which a recovery of 1150 tablets came to be effected from the petitioner.

3. The Counsel for the petitioner contends that the total weight of

the tablets was 133 grams of Alprazolam. There was a violation of mandatory provisions of the NDPS Act such as Sections 42 & 50. Since the petitioner was in custody since 02.11.2020 and only 02 out of 13 prosecution witnesses had been examined so far, he was entitled to the grant of bail in view of the judgment of the Hon'ble Supreme Court in ***Nitish Adhikary @ Bapan Vs. The State of West Bengal SLP (Crl.) Nos.5769/2022 Decided on 01.08.2022.***

4. The learned State counsel on the other hand contends that commercial quantity of contraband has been recovered from the petitioner. He was an accused in another case under the NDPS Act. However, in the said case he was acquitted. The criminal antecedents of the petitioner did not entitle him to the grant of bail despite his lengthy incarceration.

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

6. The Hon'ble Supreme Court in ***Nitish Adhikary @ Bapan Vs. The State of West Bengal SLP (Crl.) Nos.5769/2022 Decided on 01.08.2022*** held as under:-

“ As per the office report dated 29.07.2022, copy of the show cause notice along with Special Leave Petition was supplied to the Standing Counsel for the State of West Bengal and separate notice has been served on the State also. However, no one has entered appearance on their behalf.

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.”

The aforementioned decision has been followed by this Court in the case of **Balraj Singh Vs. State of Punjab CRM-M-57386-2022** **Decided on 14.12.2022.**

7. Admittedly, the petitioner is in custody since 02.11.2020. Only 02 out of the 13 prosecution witnesses have been examined. In the other case registered against the petitioner he stands acquitted. Since the Trial of the present case is not likely to be concluded anytime soon, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Gurmail Singh @ Gurmej Singh @ Babbi** son of Sh. Roshan Lal is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present one.

9. In addition, the petitioner shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from

Trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

February 22, 2023

Vinay

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