

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

267

CRM-M-51103-2022 (O&M)

Date of Decision: 14.02.2023

MANDEEP SINGH

... Petitioner

Versus

UOI

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Ashok Giri, Advocate
for the petitioner.

Ms. Sharmila Sharma, Advocate
for the respondent-UOI

HARNARESH SINGH GILL, J.(Oral)

Through this second petition, the petitioner seeks regular bail in case bearing Crime No.13 dated 14.02.2020, registered under Sections 8/21(c), 25, 27-A, 28, 29 and 60 of the NDPS Act, at Police Station Narcotic Control Bureau, Chandigarh, the first one having been dismissed as withdrawn on 31.01.2022.

Reply by way of an affidavit dated 10.02.2023 of Jr. Intelligence Officer, Narcotics Control Bureau, filed on behalf of the respondent-State, in the Court, is taken on record.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that, as per the allegation in the FIR, the petitioner along with co-accused, namely, Abhijit Singh (son of the petitioner) was apprehended while driving the car and alleged recovery of 520 grams Heroin was effected from him; that

though the alleged recovery effected in the present case, falls under the commercial quantity, yet the fact remains that the petitioner has been in custody since 14.02.2020 and that most of the prosecution witnesses are yet to be examined. In such circumstances, conclusion of the trial would take a long time. Moreover, the petitioner is not involved in any other case, much less of a similar nature.

In support of his contentions, learned counsel for the petitioner relies upon the orders delivered 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 01.08.2022, and Special Leave to Appeal (Crl.) No.4173-2022, titled as 'Shariful Islam @ Sarif Vs. State of West Bengal', on 04.08.2022.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that the contraband recovered in the present case, falls under the commercial quantity and the case of the petitioner is hit by the bar contained under Section 37 NDPS Act, as would decipher from the chemical analysis report dated 28.05.2020. However, she does not dispute the custody period of the petitioner. She further submits that the material witnesses are yet to be examined.

I have heard the learned counsel for the parties.

After investigation, challan was filed and thereafter, the charges were framed. Most of the prosecution witnesses are yet to be examined and there is no likelihood of completion of trial in the near future. The petitioner has been in custody since 14.02.2020. Recovery

has already been effected. There is no other case registered or pending against the petitioner, at least of a similar nature. All these facts persuade this Court to grant bail to the petitioner despite the rigors of Section 37 NDPS Act in the present case. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, 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.

14.02.2023

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No