

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

211

CRM-M-51417-2022 (O&M)
Date of decision: 01.06.2023

Sonu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. D.S. Virk, Advocate for the petitioner.

Mr. Sunil Kumar Vashisth, DAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Through this third petition (the earlier two were dismissed as withdrawn on 10.03.2022 and 04.07.2022, respectively), the petitioner seeks regular bail in case bearing FIR No.209 dated 22.07.2021, registered at Police Station Rajound, District Kaithal, under Sections 20(b) (ii), (c) and 29 NDPS Act, 1985.

Learned counsel for the petitioner contends that as per the prosecution version, the petitioner was arrested alongwith 1 kg. and 200 gram of charas; that in the FSL report, the percentage of salt has not been given and it cannot be ascertained whether it is *Bhang or Ganja or Charas*; that challan was presented on 19.01.2022; that though the recovery effected from the petitioner is marginally above the commercial quantity but the fact remains

that the petitioner has been in custody since 22.07.2021 i.e. more than 01 year and 10 months; that the remaining 16 prosecution witnesses are yet to be examined and that there is no other case pending or registered against the petitioner, at least of a similar nature.

In support of his case, learned counsel for the petitioner relies upon the orders 04.05.2023, passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No(s).3221/2023, titled as 'Hasanujjaman & Ors Vs. The State of West Bengal'.

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. He, however, submits that the recovery effected from the petitioner falls under the commercial quantity and that Section 37 of the NDPS Act bars the grant of bail to the accused in case of commercial quantity. He further submits that the material witnesses are yet to be examined.

I have heard the learned counsel for the parties.

Though the recovered contraband in the present case, is marginally above the commercial quantity, yet the fact remains that the petitioner has been in custody for the last more than 01 year and 10 months and that remaining 16 prosecution witnesses are yet to be examined. In such circumstances, trial of the case would take a long time to conclude. There is no other case registered or pending against the petitioner, at least of a similar nature. 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 petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

(HARNARESH SINGH GILL)
JUDGE

01.06.2023
Mangal Singh

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No