

CRM-M-51363-2022

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-51363-2022 (O & M)

Date of decision: 11.05.2023

Harsimran Singh @ Simran

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Raj Kumar Gupta, Advocate,
for the petitioner.

Mr. Kunal Muthreja, AAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

1. Through this petition, the petitioner seeks interim or regular bail in case FIR No.95 dated 21.09.2019, registered at Police Station Special Task force, STF Wing (Phase-4), Mohali, under Sections 21 and 29 NDPS Act, 1985.

2. Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that the petitioner was neither owner nor driver of the vehicle from which the alleged recovery had been effected and that provisions of Section 42 NDPS Act had not been complied with.

3. Learned counsel further contends 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 for the last more than three years and seven months, and that out of total 14 prosecution witnesses, only 02 witnesses have been examined so far. So far as another case registered against the petitioner, under the NDPS Act, is concerned, it

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pertains to the recovery of 20 gram heroin i.e. non-commercial quantity and he has been enlarged on bail therein. In support of his contentions, learned counsel relies upon the order dated 15.03.2023 passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No(s).1166/2023, titled as 'Chet Ram @ Ram Veer Vs. Union of India'.

4. 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 in the present case falls under the commercial quantity and that Section 37 NDPS Act bars the grant of bail to the accused in the case of commercial quantity. He further submits that the material witnesses are yet to be examined and that the petitioner is a habitual offender.

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

6. Though the recovery allegedly effected in the present case falls under the commercial quantity, yet the fact remains that the petitioner has been in custody since 21.09.2019. Out of 14 prosecution witnesses, 12 witnesses are yet to be examined. In such circumstances, trial of the case would take a long time to conclude. Therefore, no useful purpose would be served by keeping the petitioner in custody. So far as another case registered against the petitioner, under the NDPS Act, is concerned, he has been released on bail therein.

7. The Hon'ble Apex Court in Chet Ram @ Ram Veer's case (supra), has held as under:

The petitioner's application for bail was rejected; he is charged with committing offences under Section 8, 20, 25 and other provisions of the Narcotic Drugs and

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Psychotropic Substances Act, 1985. He has already suffered incarceration for nearly 3 and a half years. The record indicates that one out of 10 prosecution 1 witnesses have been examined.

Learned counsel for the State opposed the grant of bail submitting that the petitioner has criminal antecedents and was charged with committing an offence under Section 307 IPC and has also been charged with committing offences under the Narcotic Drugs and Psychotropic Substances Act, 1985 in another FIR.

Apparently the petitioner was acquitted in the case where he was charged with committing the offence under Section 307 IPC. As far as the other FIR alleging offences under the Narcotic Drugs and Psychotropic Substances Act, 1985 is concerned, he has been enlarged on bail.

Considering the circumstances- especially that he has undergone detention for 3 and a half years and the conclusion of trial is most likely in the distant future, he is enlarged on bail subject to such conditions as the trial court deems appropriate to impose on him.

Special leave petition is allowed in the above terms.

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

8. 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.

11.05.2023
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

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