

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-56767-2022 (O&M)
Date of decision: 27.07.2023

KAMALDEEP SINGH @ SONU

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. MJS Bedi, Advocate for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in this second petition is for grant of regular bail to the petitioner in case FIR No. 61 dated 19.06.2021, under Sections 22 (c) and 61/85 of the NDPS Act, 1985, registered at Police Station Bajakhana, District Faridkot, Punjab. The earlier bail petition was dismissed as withdrawn vide order dated 01.06.2022 in CRM-M-23599-2022 (Annexure P-8).

Status report by way of affidavit dated 25.07.2023 of the Deputy Superintendent of Police, Sub-Division Jaitu, submitted by the learned State counsel in the Court, is taken on record.

Learned counsel for the petitioner submits that the recovery falls under the commercial quantity but the fact remains that the petitioner has been in custody for the last one year and nine months (20.06.2021 to

17.08.2021 and 20.12.2021 to 26.07.2023); that the concession of interim bail granted to the petitioner vide order dated 16.08.2021 by the Court below was not misused by him and he has surrendered on time in Court; that there is no other pending or registered case against the petitioner and that out of 21 prosecution witnesses, only 05 have been examined so far.

In support of his case, learned counsel for the petitioner relies upon the order 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 and the fact that there is no other case pending or registered against the petitioner, at least of a similar nature. 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, falls under the commercial quantity, yet the fact remains that the petitioner has been in custody for the last 01 year and 09 months and that remaining 16 prosecution witnesses are yet to be examined. The concession of interim bail earlier granted to the petitioner was never misused by him. 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

27.07.2023
Mangal Singh

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