

CRM-M-57179-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-57179-2022

Date of decision: 20.09.2023

GURLAL SINGH

...Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Vipul Jindal, Advocate,
for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

1. Through this petition, the petitioner seeks regular bail in case FIR No.94 dated 04.11.2021, registered at Police Station Valtaha, District Tarn Taran, under Sections 21(c) and 29 NDPS Act.

2. Status report dated 20.09.2023 by way of affidavit of the Deputy Superintendent of Police, Sub Division Valtaha, Camp at Bhikhiwind, District Tarn Taran, filed in the Court today, is taken on record.

3. Learned counsel for the petitioner contends that as per the prosecution version, the petitioner picked up two bottles containing 950 gram heroin, from the fields of the co-accused, namely, Lakhwinder Singh and had dropped the same inside the tractor trolley owned by the co-accused. It is submitted that the petitioner has falsely been implicated in

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the present case; that the petitioner, who is a labourer, had gone to the fields of the co-accused and at that time, he was accompanied by the latter. He further submits that though extent of intoxicating contraband allegedly recovered in the present case, falls under commercial quantity, yet the fact remains that the petitioner has been in custody since 08.11.2021 and that out of 21 prosecution witnesses, only 02 witnesses have been examined so far. It is further submitted that co-accused, namely, Lakhwinder Singh has since been granted the concession of regular bail by this Court, vide order dated 19.07.2023 passed in CRM-M-33286-2023. It is further submitted that there is no other case registered or pending against the petitioner, at least of a similar nature. In support of his contentions, learned counsel relies upon the order dated 01.08.2022 passed 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'.

4. On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that recovery of contraband effected in the present case, falls under commercial quantity and that Section 37 NDPS Act bars the grant of bail to the accused in case of commercial quantity. It is further submitted that material witnesses are yet to be examined.

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

6. Indisputably, extent of contraband recovered in the present case, falls under commercial quantity, but the fact remains that the petitioner has been in custody since 08.11.2021. The prosecution witnesses are yet to be examined. Trial is unlikely to conclude any time soon. There

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is no other case registered or pending against the petitioner, at least of a similar nature. As stated above, the co-accused stands bailed out.

7. The Hon'ble Supreme Court in Nitish Adhikary @ Bapan, while granting the benefit of bail to the petitioner therein, has held as under:

“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.”

8. In view of the above, this Court finds that no useful purpose would be served by keeping the petitioner behind the bars. Resultantly, without commenting anything on the merits, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is

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ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

20.09.2023
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

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