

CRM-M-58046-2022

2023:PHHC:076135
-1-

(201) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-58046-2022
Date of Decision: 25.05.2023

SAMEER KUMAR @ PARDHAN

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. H.S. Randhawa, Advocate
for the petitioner.

Mr. Ravish Kaushik, Addl. A.G., Haryana.

JASJIT SINGH BEDI, J.

The prayer in the petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.51 dated 18.05.2021 registered under Sections 8, 22, 27-A, 29, 61, 85 of NDPS and Sections 420, 468, 471, 120-B of IPC.

2. The brief facts of the case are that while the police party had set up a *Naka*, information was received that Sameer Kumar @ Pardhan (petitioner) son of Akshay Kumar, Gurmukh Singh son of Joga Singh and Suraj Kumar son of Akshay Kumar who deal in the trade of narcotic substances were coming from Amritsar to Fatehgarh Churian to supply drugs to the people. On the basis of the said secret information, a *Naka* was laid and the accused were arrested. The petitioner-Sameer Kumar @ Pardhan and Gurmukh Singh were travelling in an ALTO K-10 bearing No.PB02-CK-9948 while Suraj Kumar was travelling on a motorcycle No.PB-02-CA-6160. On their arrest, 49500 intoxicating tablets of Tramadol were recovered from the

possession of the petitioner-Sameer Kumar @ Pardhan and Gurmukh Singh while 500 intoxicating tablets of Tramadol were recovered from the accused Suraj Kumar.

Based on the said information, the present FIR came to be registered.

3. The learned counsel for the petitioner contends that he has been falsely implicated in the present case. There has been non-compliance of the mandatory provisions of the Act regarding search and seizure. The petitioner had been in custody since 18.05.2021 and none of the 80 prosecution witnesses had been examined so far. Therefore, the trial of the present case was not likely to be concluded anytime soon and the petitioner was entitled to the concession of bail in view of the judgment of the Hon'ble Supreme Court in case of Nitish Adhikary @ Bapan Versus The State of West Bengal, SLP (Crl.) Nos.5769/2022 arising out of judgment and order dated 04.05.2022 in CRM(NDPS) No.442/2022, decided on 01.08.2022 and followed by this Court in the case of Balraj Singh Versus State of Punjab, CRM-M-57386-2022, decided on 14.12.2022.

4. On the other hand, the learned State counsel contends that commercial quantity of contraband has been recovered from the petitioner. The provisions of Section 37 of the NDPS Act did not entitle the petitioner to the grant of bail. He, however, concedes that the petitioner was in custody since 18.05.2021, none of the 80 prosecution witnesses had been examined so far and the petitioner is a first-time offender.

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

6. The Hon'ble Supreme Court in the case of **Nitish Adhikary @ Bapan Vs. The State of West Bengal SLP (Crl.) Nos.5769/2022 Decided on 01.08.2022** held as under:-

“As per the office report dated 29.07.2022, copy of the show cause notice along with Special Leave Petition was supplied to the Standing Counsel for the State of West Bengal and separate notice has been served on the State also. However, no one has entered appearance on their behalf.

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 aforesaid terms.

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

7. In the instant case, the petitioner is stated to be in custody since 18.05.2021 and none of the 80 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded

anytime soon. He is also a first-time offender with no other case registered against him. In this situation, the rigors of Section 37 of the NDPS Act can be diluted to an extent in view of the salutary provisions of Article 21 of the Constitution of India which provides for the right to a speedy trial and the case of the petitioner can be considered for the grant of bail.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Sameer Kumar @ Pardhan son of Akshay Kumar is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

25.05.2023

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No