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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-56454-2024

Date of Decision:-22.01.2025

Sandeep @ Sonu.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Karandeep Singh Sidhu, Advocate for the Petitioner.

Mr. Harkanwar Jeet Singh, AAG Punjab.

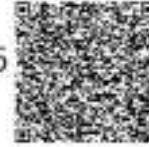
JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under section 483 BNSS is for the grant of regular bail in case FIR No.39 dated 30.06.2023 under Section 15 of NDPS Act (later on added Section 25/29 of NDPS Act, 1985) registered at Police Station Ajitwal, District Moga.

2. In brief, as per the version of the prosecution, FIR in this case was registered on the basis of a secret information and thereby, on 30.6.2023 at about 1:50 AM in the area of Kokri Kalan PS Ajitwal, District Moga, accused namely Sarabjit Singh @ Sarba son of Gurdev Singh, Sandeep Singh @ Sonu (petitioner) son of Amardeep Singh and Balbir Singh @ Sonu son of Bikkar Singh, all residents of Malsian Bajan and also of residents of Kokri Kalan, Ajitwal were apprehended while being in possession of 5 plastic bags of black colour containing poppy husk weighing 20kg each in their four wheeler make Bolero bearing registration no.PB-13AF-4564.

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Then, upon reaching their residential premises, under the shed, there were three vehicles parked with two women standing nearby, who tried to flee on seeing the police party, but they were apprehended and they disclosed their names as Jeet Kaur @ Jeeto wife of Sarabjit Singh @ Sarbha and Amro Bhai wife of Sarabjit Singh @ Sarbha. From the first four wheeler make Innova bearing no.PB-29G-8489, more five plastic bags of black colour containing poppy husk weighing 20 kg each were recovered. Then from second four wheeler make Tata Indigo bearing registration No.PB-29N-1570, three plastic bags of black colour containing poppy husk weighing 20kg each were recovered. Then, from the third four wheeler make I20 bearing registration no.DL-07CJ-5151, two plastic bags of black colour containing poppy husk weighing 20 kg each were recovered. Then from the basement of the premises, 10 more plastic bags of black colour containing poppy husk weighing 20 kg each were recovered. In this way, 25 plastic bags of black colour containing poppy husk weighing 5 Qtl in total was recovered from the possession of the accused persons namely Sarabjit Singh @ Sarba, Sandeep Singh @ Sonu, Balvir Singh @ Sonu, Jeet Kaur @ Jeeto and Amro Bai were recovered. During investigation, accused Sarabjit Singh @ Sarba suffered a disclosure statement that these 25 plastic bags of black colour containing poppy husk weighing 5 Qtls in total were delivered at his residential premises by Paramjit Singh @ Pamma @ Gora son of Gurdev Singh @ Billu resident of village Daulewala and they used to sell poppy husk to Jhinda resident of Kokri Buttar, Darshan Singh son of Unknown of village Bhinder Kalan, Teja Singh (since granted bail vide order dated 02.08.2024 in CRM-M-49877-2023) son of unknown, auto owner, residing on the road leading from Mallian to Diakalan and Karimi wife of unknown resident of Indergarh and these four persons were their permanent



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customers. Thus, upon disclosure statement suffered by accused Sarabjit Singh @ Sarba, these four persons, named above, were also nominated under section 29 of NDPS Act vide GD no.16 dated 4.7.2023.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The mandatory provisions of Sections 42 and 50 of the NDPS Act have not been complied with in their proper perspective. No independent witness was joined at the time of search and seizure. As he was in custody since 30.06.2023 and none of the 22 prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime soon and therefore, she was entitled to the concession of bail in view of the judgment of the Hon'ble Supreme Court in the 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 Hasanujjaman & others Versus The State of West Bengal, SLP (Crl.) No.(s).3221/2023 arising out of impugned final judgment and order dated 29.11.2022 in CRM(NDPS) No.1323/2022, decided on 04.05.2023.

4. On the other hand, the learned State counsel contends that commercial quantity of contraband has been recovered from the petitioner. Therefore, in view of the bar contained under Section 37 of the NDPS Act, the petitioner was not entitled to the grant of bail. He, however, concedes that the petitioner is a first time offender, in custody since 30.06.2023 and none of the 22 prosecution witnesses had been examined so far.

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



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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 aforestated terms.

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

7. In **Hasanujjaman & others Versus The State of West Bengal,**

SLP (Crl.) No.(s).3221/2023, decided on 04.05.2023, held as under:-

“1. There are three petitioners in this Special Leave Petition, who were accused of committing an offence under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, ‘NDPS Act’) in FIR No.18/2022, dated 09.01.2022, registered at Police Station Islampur, District Murshidabad, West Bengal.

2. The allegations are that when the police party intercepted the petitioners along with another person riding on two motorcycles, they were found in possession of



codeine phosphate in a consignment of phensedyl bottles loaded in two nylon bags. During the search, 115 bottles (100 ml. each) of phensedyl were recovered from the joint possession of the petitioners. ***They were arrested on the spot and have been in custody for more than one year and four months.***

3. We have heard learned counsel for the parties and carefully perused the record.

4. ***The investigation is complete; chargesheet has been filed, though the charges are yet to be framed. The conclusion of trial will, thus, take some reasonable time, regardless of the direction issued by the High Court to conclude the same within one year from the date of framing of charges. The petitioners do not have any criminal antecedents. There is, thus, substantial compliance of Section 37 of the NDPS Act.***

5. In such circumstances, but without expressing any views on the merits of the case, we deem it appropriate to release the petitioners on bail subject to the terms and conditions as may be imposed by the Trial Court.

6. Additionally, it is clarified that in case the petitioners are found involved in any other case under the NDPS Act or other penal law, it shall amount to misuse of the concession of bail granted to them today, and in such a case, necessary consequences shall follow.

7. The petitioners are further directed to appear before the Trial Court regularly. In the event of they being absent, it shall again be taken as a misuse of concession of bail.

8. The Special Leave Petition stands disposed of in the above terms.

9. As a result, pending interlocutory application also stands disposed of.

(emphasis supplied)

8. Admittedly, in '***Nitish Adhikary @ Bapan (supra) and Hasanujjaman & others (supra)***', the accused therein had been granted the concession of bail by the Hon'ble Supreme Court after they had undergone



approximately one and a half years of custody. They were also first-time offenders as is borne out from the orders.

9. In the instant case, the petitioner is stated to be in custody since 30.06.2023 and none of the 22 prosecution witnesses have been examined so far. 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.

10. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Sandeep @ Sonu** wife of Sh. Amarjeet 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.

11. 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.

12. 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.

13. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

January 22, 2025

Vinay

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