IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-36325-2021
Date of decision:29.11.2021

Baltej Singh @ Nita

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Jashandeep Singh Sandhu, Advocate,
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Through this petition, the petitioner seeks regular bail in case bearing FIR No.35 dated 11.03.2021, registered at Police Station Sadar Bathinda, District Bathinda, under Sections 22(c) and 25 NDPS Act, 1985.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case, and that at the time of the alleged raid, the police officials had used a private vehicle, but no such rapat had been made to that aspect. He further contends that the petitioner was arrested on 11.03.2021, but the sample was sent to FSL only on 15.03.2021 i.e. after a delay of four days, which creates a dent in the case of the prosecution. There is no other case pending or registered against the petitioner.

Learned counsel for the petitioner further submits that

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according to instructions/notification No.1/88 issued by the Narcotics Control Bureau, the sample of the substance is required to be sent to FSL within 72 days. The learned counsel relies upon the judgments rendered by the Hon'ble Apex Court in 'Union of India Vs. Bal Mukand and others', 2009(2) R.C.R. (Criminal) 574, and by the Coordinate Benches in CRA-S-1449-SB-2008, titled as 'Satpal Vs. State of Haryana', decided on 06.08.2012 and CRM-M-13028-2020, titled as 'Amarjit Kaur @ Kalo Vs. State of Punjab', decided on 08.06.2020, to contend that the aforesaid non-compliance would entail grant of regular bail to the petitioner at this stage.

Learned counsel further contends that there are no signatures of the petitioner on the recovery memo dated 11.03.2021; that the petitioner has been in custody since 11.03.2021, and that the prosecution witnesses are yet to be examined.

On the other hand, learned State counsel, while opposing the aforesaid submissions of the learned counsel for the petitioner, contends that 43 vials of Wincirex-100 Mls, each having batch No.WCDS-1007, were recovered from the petitioner. The aforesaid recovery falls under the commercial quantity. The challan has been presented and the next date before the trial Court is fixed for 24.12.2021.

I have heard the learned counsel for the parties.

In the present case, there is a delay of 04 days in sending the sample to the FSL for chemical examination. Moreover, at the time of the alleged raid, the police officials were patrolling in a private vehicle, but no such rapat had been made to that aspect. Out of 16 prosecution witnesses, none has been examined thus far. There is no other case pending or registered

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against the petitioner. The petitioner has been in custody since 11.03.2021. Trial is unlikely to conclude any time soon. 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 present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

29.11.2021 **(HARNARESH SINGH GILL)**
parveen kumar **JUDGE**

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

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