IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-5790-2020
Date of decision: 22.04.2022

Amarjit Singh

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Sarju Puri, Advocate,
for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks regular bail in case bearing FIR No.76 dated 02.05.2019, registered at Police Station Raja Sansi, District Amritsar, under Sections 21 and 29 NDPS Act.

The brief facts of the prosecution case are that the petitioner alongwith co-accused was apprehended on 01.05.2019 while they were travelling in a car Mahindra XUV bearing No.PB-18-B-2008; that 04 kg. heroin was recovered from their possession i.e. 01 kg. each; that during questioning, more recovery of 600 gram heroin was effected from the petitioner and 400 gram heroin was recovered from the co-accused.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that challan was presented on 24.10.2019; that though recovery of heroin allegedly effected in the present case, falls under the commercial quantity, yet the fact remains that

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the petitioner has been in custody since 02.05.2019 and the charges are to be framed. The conclusion of the trial would take a long time. Moreover, there is no other case registered or pending against the petitioner, at least of a similar nature. On this premise, the learned counsel prays for the grant of bail to the petitioner. In support of his contentions, the learned counsel relies upon the orders delivered by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No.5507/2020, titled as 'Jamshed Alam @ Jamsher Alams Vs. State of Jharkhand', decided on 29.10.2021 and Special Leave to Appeal (Crl.) No.7871/2021, titled as 'Sushil Biswas Vs. State of West Bengal', decided on 08.12.2021.

On the other hand, learned State counsel while opposing the submissions made by the learned counsel for the petitioner, submits that the aforesaid extent of heroin effected in the present case, falls under the commercial quantity. However, he does not dispute the custody period of the petitioner.

I have heard the learned counsel for the parties.

The petitioner has been in custody since 02.05.2019. After investigation, challan was filed on 24.10.2019. However, the charges have not been framed nor the trial has commenced. There are no past criminal antecedents of the petitioner. All these facts persuade this Court to grant bail to the petitioner despite the rigors of Section 37 NDPS Act in the present case. 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

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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.

However, it is made clear that in case, the petitioner is found indulged in any other case under the NDPS Act, the prosecution would be at liberty to seek cancellation of his bail in this case.

22.04.2022 **(HARNARESH SINGH GILL)**
parveen kumar **JUDGE**

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

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