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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.3771 of 2023
Date of Decision: 30.01.2023

AKHTAR HUSSAIN

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Ashok Giri, Advocate
for the petitioner.

Mr. Sanjeev Soni, Addl. A.G., Punjab.

RAJ MOHAN SINGH , J.(ORAL)

Petitioner seeks grant of regular bail in his 3rd attempt under Section 439 Cr.P.C in case bearing FIR No.22 dated 29.12.2017 registered under Sections 21, 22, 29 of the NDPS Act at Police Station STF, Phase-IV, District SAS Nagar, Mohali.

The petitioner was granted regular bail by this Court vide order dated 26.02.2018 passed in CRM-M No.7306 of 2018. As per the prosecution case, the FIR was registered on the basis of secret information to the effect that Rahul Bhati, Neeraj Harsana and Tarandeep Singh alias Bobby were involved in collection of money and buying of ice

(Methamphetamine) jointly and used to supply the same in different districts of Punjab for the purposes of earning profits for themselves. Petitioner was named by the co-accused Rahul Bhati in his disclosure statement and an amount of Rs.20,000/- was allegedly recovered from the petitioner which was claimed to be a drug money. Petitioner was arrested on 02.01.2018 and thereafter, he was granted bail by this Court on 26.02.2018. Petitioner did not appear before the trial Court resulting in passing of order dated 19.02.2019 for declaring him as proclaimed offender. Petitioner was arrested/surrendered only on 06.05.2022 i.e. after more than 3 years and since then he is in custody. CRM-M No.34060 of 2022 was dismissed by this Court on 09.08.2022 on the premise that it would be appropriate to keep the petitioner in custody to ensure the smooth trial.

Learned counsel submits that after passing of the order dated 09.08.2022, the petitioner was not produced by the jail authorities nor was his medical examination conducted and even no prosecution witness was examined on number of occasions. Learned counsel refers to the order dated 08.09.2022, when the petitioner was not produced by the jail authorities and his production warrants were issued. No prosecution witness was present on that day and medical report of the petitioner was also not produced. The case was adjourned to 29.09.2022. On the adjourned date also, the

petitioner was not produced by the jail authorities. No prosecution witness was present and even his medical report was also not produced. On the adjourned date i.e. 20.10.2022, the petitioner was produced by the jail authorities and no prosecution witness was present and his medical report was also not produced. The case was accordingly adjourned for 10.11.2022. On 10.11.2022 also, the petitioner was not produced by the jail authorities and the case was further adjourned for 01.12.2022 for production of the petitioner. Again, the petitioner was not produced nor was any prosecution witness present and the petitioner was again directed to be produced on 12.01.2023. By referring to the aforesaid interlocutory orders passed by the trial Court, learned counsel submits that after segregation of the case of the petitioner from other co-accused, the investigating agency has not produced the petitioner on number of occasions resulting in delay in trial. Since the allegation is only with regard to drug money allegedly recovered from the petitioner and that too on the basis of disclosure statement of the co-accused, therefore, the petitioner can be released on regular bail with some stringent conditions.

Learned State counsel could not dispute the factual details of the case as annexed by the petitioner with this petition. The petitioner is not being produced. Learned State counsel submits that after segregation of the case of the petitioner, no

prosecution witness has been examined. The petitioner is in custody from the last more than 8 months and 28 days.

At this stage, without meaning anything on merits of the case particularly in the light of order dated 26.02.2018, vide which regular bail was granted to the petitioner, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on regular bail, subject to his furnishing heavy bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

30.01.2023
P.Bhatt

(RAJ MOHAN SINGH)
JUDGE

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