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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: July 17, 2023

Daljeet Singh

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. K.B.S. Mann, Advocate for petitioner.

Ms. Guramrit Kaur, DAG Punjab.

ARUN MONGA, J. (ORAL)

Petitioner seeks bail in case bearing FIR No.150 dated 09.08.2022, registered under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib.

2. Per prosecution version, on secret information, *nakabandi* (barricading) was erected at Udaikaran-Sangudhon inter section at Muktsar Kotkapura highway. During checking, two trucks bearing PB-30N-9799 and RJ-13GA-8713 were stopped. Occupants of RJ-13GA-8713, i.e. driver disclosed his name as Daljit Singh alias Laddu (petitioner) and person sitting beside him told his name as Pargat Singh and posed himself the owner of the truck. Similarly driver of truck PB-30N-9799 disclosed his name as Gur Rajwinder Singh alias Raju and conductor told his name as Jagsir Singh. 10 bags containing poppy husk weighting 30/30 kg each from truck No.RJ-13GA-8713 and 250 grams of poppy husk from truck No.PB-30N-9799 was recovered. They were arrested and petitioner is in custody since 09.08.2022.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. He submits that alleged contraband was not recovered from his conscious possession. No independent witness was joined. He states that petitioner is a poor driver who was carrying out instructions of owner of the truck, namely Pargat Singh

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who is prime accused and is already in custody. He submits that he has old age parents to look after, wife and two minor children who are suffering penury in his absence as he is the only bread winner of his family. There is no other case against the petitioner, other than one under Section 138 of N.I. Act, which is a private dispute case but resulted in collateral proceedings under section 174-A of IPC.

4. On the other hand, learned State counsel, on instructions from ASI Balwant Singh opposes the bail petition. She submits that petitioner has committed a serious offence. In case, petitioner is granted concession of bail, there are chances of him tampering with evidence and/ or influencing witnesses.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. Challan is stated to have been filed and even charges were framed and trial has commenced, petitioner is not required for custodial interrogation. Out of total 30 witnesses, none has been examined so far. Trial is likely to take long time. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner has already been in jail for more than 11 months in preventive custody, being behind bars from 09.08.2022. Petitioner is stated to driver-employee and has nothing to do with the alleged contraband as he was following instructions of owner of the truck, who is already in custody. The trial is proceeding in snail pace.

6.1. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/ or influence witnesses. There is no documentary evidence and it is more in the nature of FSL report *qua* contraband, already filed in the trial Court to which accused has no access. There is no probability of tampering with evidence as the same has already been seized by the investigating agency. As regards witnesses, they are all official and therefore, they are unlikely to be influenced, even if there is any such apprehension by the prosecution.

7. Petitioner is stated to be 36-year old only bread winner of the family and has wife, two minor children and old aged parents, who are totally dependent on him and in his absence, his entire family is living in sheer penury.

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8. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.
9. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.
10. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.
11. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.
12. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 17, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No