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2023:PHHC:093090
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-7520-2022 (O&M)
Date of decision: 24th July, 2023

Amrik Singh

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. P.S. Sekhon, Advocate for the petitioner(s).
Mr. Sandeep Kumar, DAG, Punjab.

AVNEESH JHINGAN, J (Oral):

1. This second petition is filed seeking regular bail in FIR No. 148, dated 27th June, 2021, under Sections 15, 25 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Lehra, District Sangrur.

2. Learned counsel for the petitioner claims parity with co-accused Jarnail Singh @ Toni who was granted regular bail by this court on 12th May, 2023 in CRM-M-13518-2022:-

3. The following order was passed by this Court on 12th May, 2023:-

1. xxx xxx xxx
2. *These petitions are filed seeking regular bail in FIR No.148 dated 27.06.2021, under Sections 15, 25 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station Lehra, District Sangrur.*
3. *The brief facts are that ASI Jagtar Singh received a secret information that twelve persons including four petitioners i.e. Hari Singh alias Chimnu, Buta Singh, Jarnail Singh alias*

Toni and Krishan Kumar were dealing in narcotics. Acting upon the information, on 28th June, 2021, a police party headed by ASI Jaswinder Singh checked a truck and a car bearing No.PB-06-M-2777 and No.PB-13AE-3939, respectively. From the car driven by Buta Singh, co-occupants being Jarnail Singh @ Tony, Mandeep Singh @ Deep and Hari Singh @ Chimnu, one quintal of poppy husk was recovered. Five quintals of poppy husk was recovered from the truck in which Kuldeep Singh, Krishan Kumar, Gurcharan Singh alias Poly were travelling.

4. *Learned counsel for the petitioner(s) submits that it is a case of false implication. He submits that son of Hari Singh alias Chimnu (petitioner in CRM-M No.6019 of 2022) got registered FIR No.11 dated 26.05.2022 under Prevention of Corruption, Act, 1988 against ASI Jagtar Singh. The conversation with accused was recorded by the son of Hari Singh and relied upon in FIR No.11.*

5. *The contention is that during investigation, it revealed that ASI Jagtar Singh was habitual of falsely implicating the accused in NDPS case. Further that this Court in CRM-M No.33507 of 2021 and other connected matter, while deciding the bail petition of the accused, in FIR No.116, dated 15.06.2021 under Sections 21/29 of NDPS Act and Section 25 of Arms Act registered at Police Station Sadar Dhuri, District Sangrur had taken into consideration the transcript of the recorded conversation. It is submitted that Hari Singh is 70 years of age*

6. *Learned counsel submits that Buta Singh, Jarnail Singh alias Tony and Krishan Kumar were falsely implicated, they were picked up from their house on the relevant date. A representation has been filed by Krishan Kumar alleging false implication by ASI Jagtar Singh. They are not involved in any other case under the NDPS Act.*

7. *The contention is that no further recovery is to be made and the petitioners are in custody since 28.06.2021. There is no progress in the trial. Reliance is placed upon the decision of the Supreme Court in **SLP (Crl.) No.6690 of 2022-Dheeraj Kumar Shukla vs. The State of Uttar Pradesh**, decided on*

25.01.2023 and SLP (Crl.) No.1166 of 2023-Chet Ram @ Ram Veer vs. Union of India, decided on 15.03.2023.

8. *Learned State counsel opposes the prayer and submits that the large quantity of poppy husk was recovered. He fairly submits that a vigilance inquiry against ASI Jagtar Singh is pending.*

9. *Counsels for the petitioners succeeded in making prima facie dent in the story of the prosecution alleging false implication and substantiating it with a backdrop of an FIR got registered by son of Hari Singh. The petitioners are in custody since June, 2021 and till date only chief examination of one of the prosecution witness is complete. Jarnail Singh @ Toni, Buta Singh and Krishan Kumar are not involved in any other NDPS case and against Hari Singh there is one trial pending for a non-commercial recovery of poppy husk in which he is on bail.*

10 *Having the conspicuous of the facts, further that no recovery is to be made from the petitioner(s), they are in custody since June, 2021 and there is no substantial progress in the trial; the Supreme Court in **Dheeraj Kumar Shukla's case (supra)** and **Chet Ram @ Ram Veer (supra)** granted bail in similar circumstances, the petitioners are granted bail subject to their furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.*

11. *The petitions are allowed.*

12. *The observations made hereinabove are made only for the purpose of deciding the bail petitions and shall not be construed as an expression of opinion on the merits of the cases.*

4. Learned counsel for the State though opposes the prayer for grant of bail and on instructions from ASI Harbans Singh submits that petitioner was convicted in one case under the NDPS Act. He is not in a position to distinguish the case of the petitioner qua the co-accused so far as grant of bail is concerned.

5. Without commenting on the merits of the case, on the basis of parity of petitioner vis-a-vis co-accused so far as grant of bail is concerned and though the investigation is complete conclusion of trial is likely to take time, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

6. The petition is allowed.

7. Since the main case has been allowed, pending application if any is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

24th July, 2023
Parveen Sharma

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|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |