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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-11817-2023
Date of Decision: 02.06.2023

Jagpal Singh @ Gaga

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Lalit Goyal, Advocate
for the petitioner.

Mr. Harjinder S. Sidhu, AAG, Punjab.

HARSH BUNGER J. (ORAL)

Prayer in the present petition, filed under Section 439 of the Code of Criminal Procedure, is for grant of regular bail to the petitioner in case FIR No.0008 dated 14.01.2023, under Section 15(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Kotbhai, District Sri Muktsar Sahib.

2. Custody certificate dated 31.05.2023 of the petitioner has been filed by learned State counsel in Court today, which is taken on record, subject to all just exceptions.

3. Upon issuance of notice, status report by way of affidavit of Jasbir Singh, PPS, Deputy Superintendent of Police, Sub Division,

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Gidderbaha, District Sri Muktsar Sahib on behalf of respondent/State of Punjab has been filed by learned State counsel, which is already taken on record.

4. Brief facts of this case are that on 14.01.2023, the police party was on patrolling duty and when they reached near Pull Sua Kassi of village Bhalaiana, a young man was seen standing near the *Gatta* Plastic then on the basis of suspicion, the search light was applied and that young man along with medium bag (*gatta*) was about to fled from the spot and he was limping. In the meanwhile, the bag (*gatta*) opened and some items spread on the ground from his *Gatta* (medium bag) out of which poppy husk was clearly visible. Accordingly, the said man was apprehended and on asking, he disclosed his name as Jagpal Singh @ Gaga (petitioner) and after complying with necessary procedure, search was conducted and 29 Kg 500 grams of poppy husk was recovered from the possession of the petitioner. Accordingly, the present case FIR was registered.

5. Learned counsel for the petitioner submits that he has been falsely implicated in the present case. It is submitted that the recovered alleged contraband falls under the category of non-commercial quantity, accordingly, the bar under Section 37 of the Narcotic Drugs and Psychotropic Substances Act is not attracted. It is stated that the petitioner has been in custody since 18.01.2023; challan stands presented on 15.03.2023. Learned counsel next submits that the bail application moved by the petitioner for grant of regular bail has wrongly been dismissed by learned Additional Sessions Judge, Sri Muktsar Sahib, vide its order dated 17.02.2023 (Annexure P-2). It is further submitted that the trial would take

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some time and the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court; accordingly prayer for grant of regular bail is made.

6. Learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness of the offence and also on the ground that there are five more cases against the petitioner. However, it is not disputed that the petitioner has been in custody for 04 months and 13 days (as on 31.05.2023) and also the alleged recovered contraband falls under the category of non-commercial quantity.

7. Learned counsel for the petitioner, in rebuttal, has submitted that so far as involvement of petitioner in five other cases is concerned, suffice it to say that the registration of other cases against the petitioner cannot be taken to be as the sole material consideration for the purpose of declining him the relief of bail. In this regard, reference can be made to the judgment rendered by Hon'ble Supreme Court in case of ***“Maulana Mohammed Amir Rashadi Vs. State of Uttar Pradesh and another”***, reported as ***(2012) 2 Supreme Court Cases, 382***, wherein it was observed as under:-

“It is not in dispute and highlighted that the second respondent is a sitting Member of Parliament facing several criminal cases. It is also not in dispute that most of the cases ended in acquittal for want of proper witnesses or pending trial. As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing

away from the jurisdiction of the Court etc.”

8. It is stated that as per custody certificate, the petitioner is on bail in other cases.

9. I have heard learned counsel for the parties and perused the paper book, status report as well as custody certificate filed by learned State counsel, in Court today.

10. In the instant case, concededly the contraband allegedly recovered from petitioner falls in the category of “non-commercial” quantity, hence the rigors of Section 37-A of Narcotic Drugs and Psychotropic Substances Act are not attracted. The petitioner has been in custody for more than 04 months (as on 31.05.2023) and challan stands presented on 15.03.2023. The trial is likely to take long time and no useful purpose would be served by keeping the petitioner behind the bars for indefinite period.

11. Keeping in view the law laid down in ***Maulana Mohammed Amir Rashadi’s*** case (supra) and also the aforementioned circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the Trial Court/Illaqa Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of case and any change in the address shall also be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He

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would also furnish his undertaking to the effect that he will not indulge in any illegal activity, during the pendency of the trial. He shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial.

12. In addition, the petitioner (or any one on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law, in case of the absence of the petitioner from trial without sufficient cause.

13. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

14. The petition is accordingly disposed of.

02.06.2023
Himani

(HARSH BUNGER)
JUDGE

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