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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.12413 of 2023 (O&M)
Date of decision: 20.03.2023

Neeraj Ram

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Yashpal Thakur, Advocate
for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this 2nd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.104 dated 06.08.2019, registered under Sections 15/18/22/25/29/61/85 of the Narcotic Drugs and Psychotropic Substances Act (in short 'the NDPS Act') at Police Station Amloh, District Fatehgarh Sahib.

Counsel for the petitioner has submitted that as per the allegations in the FIR, 01 Kg of Opium was recovered from the petitioner by the police on receiving a secret information. It is further submitted that the petitioner was granted interim bail on 06.01.2021 passed in CRM-M No.8510 of 2020, by passing the following order:-

> *"Counsel for the petitioner has argued that as per the allegations in the FIR, the police party on receiving a secret information that a truck, being driven by the petitioner – Neeraj Ram along with Jitender Kumar @ Jeetu, is coming with huge quantity of poppy husk.*

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Thereafter, the police party stopped the said truck, which driven by the petitioner with Jitender Kumar @ Jeetu, who was the conductor of the truck, and recovered 01 Kg of opium each from both of them. The police found that the petitioner was escorting a vehicle driven by the co-accused Mukand Khan i.e. a Swift car and from the search of the said vehicle 110 Kgs of poppy husk and 10 Kgs of intoxicant powder was recovered.

Counsel for the petitioner has further submitted that it would be a debatable issue to be decided during the course of trial as to whether the petitioner was held to be in conscious possession of the recovery which was effected from the car as it is the case of the prosecution that 01 Kg opium each was recovered from the petitioner as the other occupant of the truck i.e. Jitender Kumar @ Jeetu.

Counsel for the petitioner has also submitted that the petitioner is not involved in any other case and he is in custody for the last 01 year and 05 months and till date even the charges have not been framed. It is thus, submitted that due to COVID-19 situation, the petitioner may be released on interim bail.

Counsel for the State has filed the affidavit of Major Singh, Assistant Sub-Inspector/Investigating Officer, Police Station Amloh, District Fatehgarh Sahib and as per the affidavit, it is not disputed that the recovery from the truck was made separately and recovery from the car was made separately though the allegations are that the petitioner along with the co-accused was escorting the Swift car from where the huge recovery was effected from the co-accused i.e. Mukand Khan.

After hearing the counsel for the parties, without commenting anything on merits of the case and considering the fact that the petitioner is in custody for the last 01 year and 05 months; he is not involved in any other case; charges are yet to be framed; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, this petition is partly allowed and the petitioner is directed to be released on interim bail till 31.05.2021 subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, the trial Court, after assessing the situation, if the trial has not started in ordinary course and

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the evidence is recorded, may cancel or may continue the interim bail granted to the petitioner till further orders."

Counsel for the petitioner has further submitted that the bail was granted to the petitioner due to COVID-19 situation and he was released on interim bail, however, the petitioner, who is a native of the State of Bihar had gone there and could not come back and in the intervening period, the other accused, who faced the full length trial were acquitted by the trial Court vide judgment dated 12.10.2021 (Annexure P-4). It is also submitted that the allegations against the petitioner are similar in nature and the petitioner, who is facing the trial is not likely to be convicted as the evidence against them has already been appreciated in the judgment dated 12.09.2021. Lastly, it is submitted that as on today, the petitioner is in custody for the last 01 year, 09 months and 17 days and he is not involved in any other case under the NDPS Act.

Counsel for the State on the basis of the Custody Certificate and on instructions from ASI Kawaljit Singh, has not disputed the factual position but opposed the prayer for bail. It is also not disputed that the other co-accused of the petitioner have already been acquitted by the trial Court.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 01 year, 09 months and 17 days; the co-accused of the petitioner are already acquitted by the trial Court; the petitioner is not involved in any other case of NDPS Act; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time, this petition

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is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

20.03.2023
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

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