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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15365-2022 (O&M)
Date of Decision: 10.01.2023

KARAMVIR ALIAS KALA

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Satnam Singh Gill, Advocate for the petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

...

Manoj Bajaj, J. (Oral)

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C, pending trial in case FIR No.50 dated 08.04.2019 registered under Sections 15, 25 and 29 NDPS Act, 1985 at Police Station Shahzadpur, District Ambala. The petitioner is in custody since his arrest on 08.04.2019.

As per the allegations in the FIR, on 08.04.2019, the police party received a secret information that a Tata Super Ace bearing registration No.HR-37-D-0485 loaded with heavy quantity of poppy husk would be coming from the side of Patwi and Karambir @ Kala, Rinku Rana @ Jonny and Ashwani Gupta @ Jonny are involved in the supply of narcotics. The vehicle was intercepted by the police officials, who arrested two persons Karambir and Ashwani, whereas the person sitting at the back side of the vehicle escaped from the spot and his name was disclosed as Rinku Rana by the co-accused. Upon search of the vehicle, 13 plastic bags containing 40 kgs. each of poppy husk were recovered from the said vehicle.

Learned counsel for the petitioner has argued that as per prosecution, co-accused Ashwani Gupta along with the petitioner-Karamvir @ Kala was apprehended on the basis of secret information, whereas Rinku Rana @ Jonny ran away from the spot and recovery of 5 quintals 20 kgs poppy husk was effected from vehicle bearing No.HR-37-D-0485. He submits that the petitioner is not involved in any other case of similar nature, who was driving the vehicle with Ashwani Gupta @ Jonny, co-accused and owner of the car. According to him, the co-accused of the petitioner have been released on bail and the petitioner is in custody for more than 3½ years, but the trial is yet to commence, as no prosecution witness has been examined so far. He prays for regular bail.

Learned State counsel, assisted by ASI Sunil Kumar has opposed the prayer on the ground that the recovered contraband would fall within the ambit of commercial quantity. Mr. Parmar, learned State counsel has argued that the case of the petitioner is distinguishable from co-accused Ravinder Singh @ Joku, who was released on bail vide order dated 05.02.2021 passed by this Court, as the said accused was implicated on the basis of disclosure statement suffered by the accused arrested on the spot, however, it is not disputed by learned State counsel that the person, who absconded from the spot has been granted bail by the Addl. Sessions Judge, Amabala vide order dated 23.02.2021, who is regularly attending the trial proceedings. Learned State counsel further states that the petitioner is not involved in any other case and in the present case, though the charges were framed against the accused on 04.02.2021, but till date, no prosecution witness has been examined out of total twenty nine prosecution witnesses.

After hearing the learned counsel for the parties and considering the merits of this case, this Court finds that the charges against the accused were framed on 04.02.2021, but after that in a period of approximately two years, not even a single prosecution witness has been examined and no sufficient explanation has been furnished by the respondent-State for this inordinate delay. The other co-accused have already been released on regular bail and the petitioner is not involved in any other case of similar nature, therefore, this Court is of the considered opinion that his further detention behind the bars may not serve any useful purpose.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

10.01.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No