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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M- 14166-2023 (O&M)

Date of Decision: 20.04.2023

Mahabir Singh alias Manbir Singh

... Petitioner

V/s.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Mr. Sahil Pwar, Advocate
for the petitioner.
Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

DEEPAK MANCHANDA, J.(Oral)

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C. in case FIR No. 44 dated 04.07.2018, under Sections 21 and 29 NDPS Act registered at Police Station Khalra, District Tarn Taran, who is alleged to have possessed contraband of 350 gram of heroin.

Learned counsel for the petitioner contends that the petitioner is in custody since 14.12.2018. He submits that the petitioner has been falsely implicated in the present case as no recovery of alleged contraband has been effected from the petitioner rather its from the car in which the petitioner was travelling along with others and the said car does not even belong to him. He claims parity by submitting that the co-accused Nirval Singh (in CRM-M-47315-2018), Sukhraj Singh alias Kala (CRM-M-771-2019), Manga Singh (CRM-M-5736-2019) and Ajaypal Singh (CRM-M-

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5704-2019) have already been granted concession of regular bail by this Court. He further submits that the challan stands presented and the charges have been framed and out of total 15 prosecution witnesses, none has been examined till date. Learned counsel for the petitioner refers to the judgment rendered by the Apex Court in *Maulana Mohd. Amir Rashdi vs. State of Uttar Pradesh and Another in Criminal Appeal No. 159 of 2012* while contending that though the recovery is commercial but the petitioner is under custody since long time in the present case and the conclusion of trial will take sufficient time, therefore, prayer is made for the petitioner to be enlarged on bail.

Custody certificate along with reply has been filed by the respondent-State, which are taken on record. Even though learned counsel appearing on behalf of respondent-State, on instructions from the Investigating Officer, opposes the grant of regular bail to the petitioner, while submitting that the offence alleged against the petitioner is serious in nature and 09 other cases were registered against the petitioner, however he does not dispute the fact that challan stands presented and other co-accused have already been granted bail.

Confronted with the same, learned counsel for the petitioner submits that in some of the cases, the petitioner is on bail and some case are pending in this Court.

I have heard learned counsel for the parties.

Petitioner is in incarceration since 14.12.2018.

It is not a case made out by the respondent-State that in case concession of bail is granted to the petitioner, he would hamper the course

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of free and fair trial. Further, since the challan stands presented and the charges have been framed and other co-accused have already been allowed bail and the trial would take sufficient time, no useful purpose would be served in keeping the petitioner behind bars

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 on the following conditions:-

- 1. *he shall appear before the Court on each and every date of hearing;*
- 2. *he shall not give any threat or intimidation to the prosecution witnesses;*
- 3. *he shall not indulge in any criminal activity.*

The Court accepting bonds would ensure that two local sureties who are financially sound having immovable properties within jurisdiction of the district furnish the bonds.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

In case the petitioner violates any terms and conditions on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of his bail.

The petition is allowed accordingly.

(DEEPAK MANCHANDA)
JUDGE

20.04.2023

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Whether speaking/reasoned	Yes
Whether Reportable	Yes /No

