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(219)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-20821-2023
Date of Decision: 02.05.2023

SOMA @ DENGU @ JASBIR

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr.Munish Kamboj, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, D.A.G, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.166 dated 23.12.2021 registered under Sections 21(b) NDPS Act, (Section 27-A NDPS added later on) at Police Station Jakhal, District Fatehabad.

2. The brief facts of the case are that on 23.12.2021, a police party headed by ASI Om Parkash apprehended Gurpreet Singh (since granted bail vide order dated 08.02.2022 Annexure P-4) son of Jagga Ram while riding a motorcycle bearing Engine No.JWUBRM10781 and Chassis No.MD2DSJWZZRPM10686. The recovery of 50 grams of heroin was effected from him in the presence of Shri Ram Chander Naib Tehsildar, Jakhal. On interrogation, Gurpreet Singh disclosed that he had been provided the contraband by Soma @ Dengu @ Jasbir (petitioner) for sale on the basis of commission. On the basis of the said disclosure statement, the petitioner came to be nominated as an accused.

3. The learned counsel for the petitioner contends that he has been named in the disclosure statement of his co-accused Gurpreet Singh. The said statement is inadmissible in evidence as has been held in *Tofan Singh Versus State of Tamil Nadu, 2020 AIR (Supreme Court) 5592, Rakesh Kumar Singla Versus Union of India, 2021(1) RCR (Criminal) 704, Surinder Kumar Khanna Versus Intelligence Officer Directorate of Revenue Intelligence, 2018(3) RCR (Criminal) 954* and *State by (NCB) Bengaluru Versus Pallulabid Ahmad Arimutta & Anr. 2022(1) RCR (Criminal) 762.*

He contends that Gurpreet Singh the main accused from whom the recovery was effected has already been granted the concession of bail by the Trial Court vide order dated 08.02.2022 (Annexure P-4). There were two other cases registered against the petitioner in which he has also been granted the concession of bail vide order dated 10.04.2023 (Annexure P-3) and order dated 13.07.2022 passed by the Additional District and Sessions Judge. The copy of the said order is marked as X. As the petitioner was in custody since 23.01.2022 and none of the 14 prosecution witnesses had been examined so far, the petitioner was entitled to the concession of bail.

4. On the other hand, the learned State counsel contends that though admittedly, the petitioner had been named in the disclosure statement of the arrested accused who has been granted bail, the criminal antecedents of the petitioner did not entitle him to the concession of bail. He, however, concedes that no recovery has been effected from the petitioner in the instant case, in the two other cases registered against him, he had been granted the

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concession of bail as also the fact that none of the 14 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.

6. The evidentiary value of the disclosure statement of the arrested accused Gurpreet Singh inculcating the petitioner shall be adjudicated upon during the course of the Trial. The main accused Gurpreet Singh has already been granted the concession of bail vide order dated 08.02.2022 (Annexure P-4). The petitioner is stated to be in custody since 25.01.2022 and none of the 14 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. In such a situation, the further incarceration of the petitioner is not required, moreso, when in the two other cases registered against him, he has been granted the similar concession.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Soma @ Dengu @ Jasbir son of Ramlal @ Ramphal is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial

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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.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

02.05.2023

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No