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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-20937-2023

Date of decision : 03.05.2023

Subhash @ Sedhu**.....Petitioner****versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********

Present :- Mr. Anshuman Dalal, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

*********RAJESH BHARDWAJ, J. (Oral)**

This is the third petition filed by the petitioner praying for grant of regular bail in case FIR No.379 dated 31.07.2017, under Section 15, 20 and 27-A of NDPS Act and Sections 420, 467, 468 and 471 of IPC, registered at Police Station Sadar Dadri, District Charkhi Dadri.

As per the facts of the case, police party received a secret information wherein it was informed that Subhash @ Saidu and Mahesh Kumar are involved in the business of selling Doda Post and they are on their way from Naurangabas Rajpurtan after loading Doda Post therein in their Bolero pickup Van which had the forged number plate. If Naurangabas Jatan Bus Stand Rajpurtan is raided, they can be arrested. Finding the secret information reliable, necessary formalities were completed and the information was sent to the senior officials. FIR was registered and the naqa was led by the police. During naqa, police party stopped a pick up Bolero and on their asking, driver told his name as

Mahesh Kumar whereas, the persons sitting on the conductor side, disclosed his name Subhash @ Seidu (petitioner). On search of the pickup van, 305 kg of poppy straw was recovered. The accused failed to show any license for carrying the same and thus, they were arrested by the police on the same date i.e. 31.07.2017. Investigating agency completed the investigation, filed the challan and the trial commenced. Petitioner was granted bail by this Court vide order dated 13.09.2018. Thereafter, petitioner remained absent on 19.10.2022 and thus, he was declared proclaimed offender by the Court on 27.02.2023. Thereafter, he was arrested on the next day i.e. on 28.02.2023. He approached the Court of learned Additional Sessions Judge, Charki Dadri praying for grant of bail. However, after hearing counsel for the parties, learned Additional Sessions Judge, declined the same vide order dated 24.03.2023. Aggrieved by the same, petitioner is before this Court praying for grant of regular bail.

It has been contended by counsel for the petitioner that the petitioner has been falsely implicated in this case. He submits that though as per the case of prosecution, petitioner was arrested on 31.07.2023, however, he was granted bail by this Court vide order dated 13.09.2018. He has drawn the attention of this Court to the zimni orders of the trial Court wherein he was continuously shown to be appearing before the trial Court. However, it is only on one date i.e. 19.10.2022 he remained absent and thus, he was declared Proclaimed Offender on 27.02.2023. He has submitted that the petitioner was arrested on the next day i.e. 28.02.2023 and he has duly appeared before the trial Court. He has submitted that the absence of the petitioner from the trial Court was only for one date and

thus, the trial Court erroneously forfeited his bail bonds. He submits that even otherwise, no prosecution witnesses was present on that date. He has submitted that the petitioner was prosecuted in other cases as well, however, he has been acquitted in all those cases. He submits that prosecution has examined about half of the witnesses cited and thus, petitioner deserves to be granted regular bail.

Learned State counsel, on instructions from SI Anil Kumar has submitted that though bail was granted to the petitioner but he was arrested with the recovery of commercial quantity. He submits that besides this case, petitioner is involved in 10 other cases but no case is under the NDPS Act. He submits that in the facts and circumstances of the case, petitioner does not deserve to be granted bail.

I have heard counsel for the parties and perused the record.

Evidently petitioner was arrested with the pick up van from which recovery of 305 kg of poppy husk was made. Thereafter, he was granted bail by this Court vide order dated 13.09.2018. However, he remained absent on one date for which his bail bonds were forfeited and thereafter, he was arrested and is behind bars since then. As submitted by learned State counsel, out of 24 prosecution witnesses, 10 witnesses have already been examined.

The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficiently long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that

learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

03.05.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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