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2023:PHHC: 077921

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDI-
GARH**

CRM-M-26062-2023

Date of Decision: 29.05.2023

SANDEEP

..... PETITIONER

VS

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present : Mr. Gaurav Sharma, Advocate for the petitioner.
Mr. Sarbjit Singh Cheema, DAG, Punjab.

GURBIR SINGH, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No. 09 dated 07.01.2023 under Sections 21/61/85 of NDPS registered at Police Station Rama Mandi District Jalandhar.

As per prosecution version, on 07.01.2023, police party was on patrolling duty. Two youths on seeing the police party tried to turn back but they were apprehended and were enquired about their whereabouts. On asking, one of the accused disclosed his name as Sandeep and other accused disclosed his name as Komal Kumar. On personal search of accused Sandeep, a polythene bag containing 200 grams of heroin was recovered from his trousers and 200 grams of heroin was recovered from the co-accused namely Komal Kumar which was without any permit or license. The recovery was taken into possession.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case. The alleged recovery is planted one. He is not involved in any other case. Moreover, the recovery effected from petitioner is of non-commercial nature. He has been in custody in this case

since 07.01.2023. Learned trial Court dismissed his application on the pretext of heavy quantity of contraband and nature of offence. He further submits that vide order dated 12.05.2023 in CRM-M-15597-2023 passed by this Court, co-accused- Komal Kumar has already been granted the concession of regular bail by this Court, therefore, the petitioner deserves the concession of bail.

Learned counsel for the petitioner submits that recovery of heroin is of non-commercial in nature. The recovery from both the accused cannot be joined together. He has placed reliance upon judgments of “**Amar Singh Ramjibhai Barot Versus State of Gujrat**” in Criminal Appeal No. 1218-2005 decided on 19.09.2005 by Hon’ble Apex Court, “**Samit Gandhi @ Prakash Bhuyan Vs. State of Gujarat**” in SLP 11112-2022 decided on 22.03.2023 by Hon’ble Supreme Court of India and “**Ranjit Kaur @ Gindo Vs. State of Punjab**” in CRM-M47826-2022 decided on 03.02.2023 passed by Co-ordinate Bench of this Hon’ble Court.

Learned State counsel has opposed the prayer made by the learned counsel for the petitioner and submits that both the petitioners are known to each other, were going together. The recovery effected from both of them, is required to be joined together. The recovery falls under commercial quantity, and therefore petitioner is not entitled for bail.

Heard.

As per the version of the prosecution, 200 grams of heroin was recovered from the exclusive possession of the petitioner. Same was recovered on his personal search from the pocket of his trousers which he was wearing. Similarly from co-accused, 200 grams of heroin was also recovered from the pocket of the trouser which he was wearing.

In case, ***“Amarsingh Ramjibhai Barot Vs. State of Gujarat”*** cited supra Hon’ble Supreme Court has held that quantity of contraband carried by both the accused could not be added to bring it within meaning of commercial quantity and Section 29 will not be attracted.

In a judgement titled as ***“Ranjit Kaur @ Gindo Vs. State of Punjab”*** in CRM-M47826-2022 dated 03.02.2023 passed by Co-ordinate Bench of this Hon’ble Court, concession of regular bail has been granted to the petitioner. In that case also there were three persons including the petitioner and 250 grams of heroin from each one of them was recovered.

Since the petitioner is in custody. The completion of trial will also take a long time, no useful purpose would be served by keeping the petitioner behind bars for a long period.

Accordingly, without commenting upon the merits of the case, the present petition is allowed and the petitioner is directed to be released on regular bail, on his furnishing bail bonds/surety bonds, to the satisfaction of learned Trial Court/Duty Magistrate, concerned.

(GURBIR SINGH)
JUDGE

29.05.2023
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No