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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-27585-2023(O&M)
Date of Decision: 24.08.2023

Sukhdev Singh @ Sukha

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. R.S. Sidhu, Advocate, for the petitioner.

Mr. Sarabjit Singh Cheema, DAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present is a third petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.55 dated 13.07.2021, under Sections 21 and 25 of NDPS Act, registered at Police Station Harike, District Tarn Taran.
2. Learned counsel for the petitioner has submitted that the petitioner is in custody from 13.07.2021 which is more than 2 years and 1 month and no prosecution witness has been examined till date. He submitted that the trial is not progressing and therefore, the petitioner may be considered for the grant of regular bail.
3. On the other hand, Mr. Sarabjit Singh Cheema, DAG, Punjab has submitted that it is case where the petitioner is in custody from 13.07.2021 and the trial could not progress because of non-production of the petitioner. He submitted that a report was called from the concerned trial

Court by this Court in this regard to ascertain the status. He has however opposed the grant of bail on the ground that there was a recovery 280 grams of heroin from the petitioner which falls in the category in commercial quantity and therefore, the prayer of the petitioner is hit by the bar contained under Section 37 of the NDPS Act to which the learned counsel for the petitioner has no ground to make a departure from the aforesaid bar. He further submitted that the petitioner is involved in nine more cases out of which seven cases are under the NDPS Act and he is an habitual offender and in case the petitioner is released on bail, then he may repeat the offence and may even abscond from justice.

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

5. The petitioner is stated to be in custody from 13.07.2021 and no prosecution witness has been examined till date. He is stated to be involved in nine more cases out of which seven cases are under the NDPS Act. The alleged recovery from the petitioner was 280 grams of heroin which falls in the category of commercial quantity and no ground has been made out by the learned counsel for the petitioner for making a departure from the aforesaid bar under Section 37 of the NDPS Act.

6. This Court with regard to ascertaining the status of the trial had called for status report from the learned trial Court and in pursuance thereof, a report dated 02.08.2023 has been received in which it has been stated that earlier the accused was not produced on many dates and usually the reason which was cited by the jail authorities was deficiency of the police force /escort and lately because of unavailability of the police force due to flood like situations in the State of Punjab. However, when the case was taken up

for the first time by the learned trial Judge from his predecessor Judge on 15.07.2023, though the petitioner was not physically produced in the Court but his presence was got marked through video conferencing. No prosecution witness has been examined so far and summons have already been issued to the investigating officer and some of the other witnesses. The learned trial Court has specifically stated in the report that every earnest effort will be made to expeditiously conclude the trial and the speed of trial would not be slowed down due to physical non-production of the accused and in such circumstances assistance of video conferencing facility will be taken and besides that the first endeavour of the Court would be to ensure physical production of the accused in the Court.

7. This Court is of the view that the learned trial Court has already expressed that now earnest efforts will be made to expeditiously conclude the trial and therefore, no further direction is required to be issued to the learned trial Court for further expediting the trial in view of the report submitted by him.

8. In view of the aforesaid position, the present petition is dismissed.

9. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

24.08.2023

rakesh

(JASGURPREET SINGH PURI)
JUDGE

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