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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M- 33239-2022 (O&M)
Date of Decision: 01.05.2023

Amit Kumar

... Petitioner

V/s.

State of Punjab

... Respondent

CORAM: **HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present : Mr. Sarju Puri, 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. 183 dated 09.11.2021, under Sections 21, 25 and 29 of NDPS Act registered at Police Station Sadar Jalandhar, District Police Commissionerate, Jalandhar wherein petitioner along with other 04 accused persons is alleged to have possessed contraband of 1kg 40 grams of heroin, out of which he is alleged to have 500 gram of heroin.

Learned counsel for the petitioner contends that the petitioner is in custody since 09.11.2021 and has been falsely implicated in the present case, he has been nominated on the basis of secret information. It is further submitted that the co-accused Navdeep Kumar, Harjit Singh alias Jeeta,

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Karan, and Arun alias Bunty have also been granted concession of regular bail by the Co-ordinate Bench of this Court vide CRM-M-3105-2022 Dated 01.02.2022, CRM-M-5415-2022 Dated 15.02.2022, CRM-M-13507-2022 Dated 05.04.2022, CRM-M-13645-2022 Dated 06.04.2022 respectively. Learned counsel for the petitioner also placed reliance upon the judgments rendered by the Apex Court in *Shariful Islam alias Sarif vs. The State of West Bengal, SLP (Crl.) No. 4173 of 2022 dated 22.03.2022; Boota Singh and Others vs. State of Haryana, Crl. Appeal No. 421 of 2021 dated 16.04.2021; Rajender Singh vs. State of Haryana, Crl. Appeal No. 1051 of 2009 dated 08.08.2011* and by the Bombay High Court in *Raju Bhavlal Pawar and others vs. The State of Maharashtra, Bail Application No. 568 of 2021 dated 26.10.2021 etc.* He also averred that the petitioner is in custody since 01 year and 05 months and has no other antecedents, where challan has already been presented and out of total 14 witnesses none has been examined till date and the conclusion of trial will take sufficient time, therefore, the petitioner be enlarged on bail.

Custody certificate has been filed by the respondent-State, which is 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, however, does not dispute the fact that co-accused have also been allowed bail and no other case is pending against the petitioner.

I have heard learned counsel for the parties.

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Petitioner is in incarceration since 09.11.2021.

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 of free and fair trial. Further, since co-accused have been granted bail and there are no other antecedents and out of 14 witnesses none has been examined till date and the trial would take sufficient time, no useful purpose would be served in keeping the petitioner behind bars.

Further, the Apex court has observed in the case of ***Sanjay Chandra vs. C.B.I. Crl. Appeal No. 2178 of 2011 (Arising out of SLP (Crl.) No. 5650 of 2011) dated 23.11.2011***, the relevant of which is as under:-

26) When the undertrial prisoners are detained in jail custody to an indefinite period, [Article 21](#) of the Constitution is violated. Every person, detained or arrested, is entitled to speedy trial, the question is : whether the same is possible in the present case. There are seventeen accused persons. Statement of the witnesses runs to several hundred pages and the documents on which reliance is placed by the prosecution, is voluminous. The trial may take considerable time and it looks to us that the appellants, who are in jail, have to remain in jail longer than the period of detention, had they been convicted. It is not in the interest of justice that accused should be in jail for an indefinite period. No doubt, the offence alleged against the appellants is a serious one in terms of alleged huge loss to the State exchequer, that, by itself, should not deter us from enlarging the appellants on bail when there is no serious contention of the respondent that the accused, if released on bail, would interfere with the trial or tamper with

*evidence. We do not see any good reason to detain the accused in custody, that too, after the completion of the investigation and filing of the charge-sheet. This Court, in the case of **State of Kerala Vs. Raneef (2011) 1 SCC 784**, has stated :-*

*"15. In deciding bail applications an important factor which should certainly be taken into consideration by the court is the delay in concluding the trial. Often this takes several years, and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody? Is [Article 21](#) of the Constitution, which is the most basic of all the fundamental rights in our Constitution, not violated in such a case? Of course this is not the only factor, but it is certainly one of the important factors in deciding whether to grant bail. In the present case the respondent has already spent 66 days in custody (as stated in Para 2 of his counter-affidavit), and we see no reason why he should be denied bail. A doctor incarcerated for a long period may end up like Dr. Manette in Charles Dicken's novel *A Tale of Two Cities*, who forgot his profession and even his name in the Bastille."*

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.*

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

01.05.2023
seema

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes /No</i>