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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CRM-M-33186-2023

Date of Decision:-19.10.2023

RANJIT SINGH @ HAPPY

.....Petitioner.

Vs.

STATE OF PUNJAB

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Ms. Gagandeep Kaur, Advocate
for the Petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

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JASJIT SINGH BEDI, J.(ORAL)

The prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.142 dated 13.04.2022 under Sections 22, 25, 29, 61, 85 of the NDPS Act at Police Station City Barnala, District Barnala.

2. The brief facts of the case are that while the police party was on patrollling duty, secret information was received that Ranjit Singh @ Happy (petitioner) son of Hari Singh and Pargaso Kaur were engaged in the business of selling intoxicant tablets together. Ranjit Singh @ Happy used to get the intoxicant tablets from outside and handed over the same to Pargaso Kaur who was then supplied the same to the customers in the Sensi Mohalla near the Bus Stand. On that day, Ranjit Singh @ Happy had come on a motorcycle bearing No.PB-13BH-8614 with the tablets taken from outside to deliver the same to Pargaso Kaur. A search was made for the said persons,

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they could be arrested along with the intoxicant tablets.

Based on the aforementioned information, the FIR came to be registered and thereafter from the possession of Pargaso Kaur, 1010 loose intoxicant tablets, 40 intoxicant tablets of ETEZOLA and from the possession of Ranjit Singh @ Happy (petitioner), 1000 intoxicant tablets of Prodol 150 SR and 120 intoxicant tablets of TMD/100 SR were recovered. During the investigation, Ranjit Singh @ Happy disclosed that he had given the intoxicant tablets to Pargaso Kaur.

On interrogation of the above-mentioned accused, Pawan Kumar was nominated as an accused in the present case and Section 29 of the NDPS Act was added. On the arrest of Pawan Kumar, 50 intoxicant tablets of TMD/100 SR and 30 intoxicant capsules make Prebasun-300 came to be effected.

During further investigation, Pargaso Kaur disclosed that he had given some tablets purchased by her from Pawan Kumar to Navneet Kaur and accordingly she was also nominated as an accused in the present case under Section 29 of the NDPS Act. She was arrested on 24.04.2022 and the recovery of 100 intoxicant tablets came to be effected from her.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The mandatory provisions of Sections 42 and 50 of the NDPS Act have not been complied with in their proper perspective. No independent witness was joined at the time of search and seizure. As he was a first-time offender, in custody since 13.04.2022 and only 03 out of the 25 prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail in view

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of the judgment of the Hon'ble Supreme Court in the case of ***Nitish Adhikary @ Bapan Versus The State of West Bengal, SLP (Crl.) Nos.5769/2022 arising out of judgment and order dated 04.05.2022 in CRM(NDPS) No.442/2022, decided on 01.08.2022*** and ***Hasanujjaman & others Versus The State of West Bengal, SLP (Crl.) No.(s).3221/2023 arising out of impugned final judgment and order dated 29.11.2022 in CRM(NDPS) No.1323/2022, decided on 04.05.2023***.

4. On the other hand, the learned State counsel contends that commercial quantity of contraband has been recovered from the petitioner. Therefore, in view of the bar contained under Section 37 of the NDPS Act, the petitioner was not entitled to the grant of bail. He, however, concedes that the petitioner is a first time offender, in custody since 13.04.2022 and only 03 out of the 25 prosecution witnesses had been examined so far.

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

6. The Hon'ble Supreme Court in the case of ***Nitish Adhikary @ Bapan Vs. The State of West Bengal SLP (Crl.) Nos.5769/2022 Decided on 01.08.2022*** held as under:-

> *"As per the office report dated 29.07.2022, copy of the show cause notice along with Special Leave Petition was supplied to the Standing Counsel for the State of West Bengal and separate notice has been served on the State also. However, no one has entered appearance on their behalf.*
>
> *The petitioner seeks enlargement on bail in F.I.R. No. 612 of 2020 dated 17.10.2020 filed under Section 21(c) and 37 of the NDPS 2 Act, registered at Police Station Bongaon, West Bengal.*
>
> ***During the course of the hearing, we are informed that the petitioner has undergone custody for a period of 01 year and 07 months as on 09.06.2022. The trial is at a***

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preliminary stage, as only one witness has been examined. The petitioner does not have any criminal antecedents.

Taking into consideration the period of sentence undergone by the petitioner and all the attending circumstances but without expressing any views in the merits of the case, we are inclined to grant bail to the petitioner.

The petitioner is accordingly, directed to be released on bail subject to him furnishing bail bonds to the satisfaction of the Trial Court.

The Special Leave Petition is disposed of on the aforestated terms.

Pending application(s), if any, shall stand disposed of."

7. In ***Hasanujjaman & others Versus The State of West Bengal, SLP (Crl.) No.(s).3221/2023, decided on 04.05.2023,*** held as under:-

"1. There are three petitioners in this Special Leave Petition, who were accused of committing an offence under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, `NDPS Act') in FIR No.18/2022, dated 09.01.2022, registered at Police Station Islampur, District Murshidabad, West Bengal.

2. The allegations are that when the police party intercepted the petitioners along with another person riding on two motorcycles, they were found in possession of codeine phosphate in a consignment of phensedyl bottles loaded in two nylon bags. During the search, 115 bottles (100 ml. each) of phensedyl were recovered from the joint possession of the petitioners. ***They were arrested on the spot and have been in custody for more than one year and four months.***

3. We have heard learned counsel for the parties and carefully perused the record.

4. ***The investigation is complete; chargesheet has been filed, though the charges are yet to be framed. The***

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> ***conclusion of trial will, thus, take some reasonable time, regardless of the direction issued by the High Court to conclude the same within one year from the date of framing of charges. The petitioners do not have any criminal antecedents. There is, thus, substantial compliance of Section 37 of the NDPS Act.***
>
> *5. In such circumstances, but without expressing any views on the merits of the case, we deem it appropriate to release the petitioners on bail subject to the terms and conditions as may be imposed by the Trial Court.*
>
> *6. Additionally, it is clarified that in case the petitioners are found involved in any other case under the NDPS Act or other penal law, it shall amount to misuse of the concession of bail granted to them today, and in such a case, necessary consequences shall follow.*
>
> *7. The petitioners are further directed to appear before the Trial Court regularly. In the event of they being absent, it shall again be taken as a misuse of concession of bail.*
>
> *8. The Special Leave Petition stands disposed of in the above terms.*
>
> *9. As a result, pending interlocutory application also stands disposed of.*
>
> (emphasis supplied)

8. In the instant case, the petitioner is stated to be in custody since 13.04.2022 and only 03 out of the 25 prosecution witnesses have been examined so far. He is also a first-time offender with no other case registered against him. In this situation, the rigors of Section 37 of the NDPS Act can be diluted to an extent in view of the salutary provisions of Article 21 of the Constitution of India which provides for the right to a speedy trial and the case of the petitioner can be considered for the grant of bail.

9. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Ranjit Singh @ Happy son of Hari

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Singh 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.

10. 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 present case.

11. 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 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.

12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

19.10.2023
JITESH

Whether speaking/reasoned	***Yes/No***
Whether reportable	***Yes/No***

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