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2023:PHHC:113480

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-33277-2023

DECIDED ON: 19th JULY, 2023

TASLEEM

PETITIONER

VERSUS

STATE OF PUNJAB

RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. SPS Khaira, Advocate
for the petitioner.

Mr. Karan Puggal, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in FIR No. 114, dated 29.05.2022, under Section 21 of NDPS Act, 1985, registered at Police Station Moti Nagar, Ludhiana.

2. Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in the present case. It is asserted that the alleged recovery is planted one and there is non-compliance of Section 50 of NDPS Act, as the search was not conducted in the presence of Gazetted Officer or Magistrate.

3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. As per the custody certificate the

petitioner has undergone incarceration for a period of 1 year 1 month and 17 days only as of now. He prays for dismissal of the present petition stating that the petitioner was found in conscious possession of 2040 intoxicant tablets, which falls under commercial quantity and on this account, rigors of Section 37 of NDPS Act is attracted.

4. Heard learned counsel for the respective parties.

5. Having heard learned counsel for the parties and examining the facts and circumstances at this juncture, there is no material evidence to establish innocence of the petitioner-accused as such, the question of admitting him to regular bail does not right at all.

6. Section 37 of the NDPS Act, envisaged to twin conditions: The court's satisfaction that there were reasonable grounds for believing that the accused was not guilty; and he was not likely to commit any offence while on bail. The statute used "three expressions" — "the court is satisfied"; "reasonable grounds", and "believing that the accused is not guilty", and as such, it does not restrain the Court from exercising its jurisdiction. The requirement of recording reasons would not mean to record in writing establishing that an accused is innocent'. Hence it is the subjective satisfaction of the court based on an objective assessment of the material brought before it for giving a reasonable ground to sustain a belief.

7. As strongly asserted by the learned State counsel there is sufficient and cogent evidence which is sufficient for this court to draw an inference that there are reasonable grounds to believe the petitioner's active and regular involvement in drug peddling.

8. This Court is of the considered view that drug menace in the State of Punjab is writ large and large number of youth are falling prey at the hands of such mafia. The role of the petitioner is not that of law abiding citizen as is evident from the record before this Court. With deep concern it is of utmost importance at this stage to say that clandestine smuggling of narcotics drugs and psychotropic substance has led to drug addiction among a sizeable section of the public, particularly the adolescence and students of both sexes and the menace has assumed serious and alarming proportions in recent times.

9. It has to be borne in mind that in a murder case the accused commits murder of one or two persons, while those persons who are dealing in a narcotic drugs are instrumental in causing death or inflicting death blow to a number of innocent young victims, who are vulnerable; it causes deleterious effects and a deadly impact on the society; they are a hazard to the society; even if they are released temporarily, in all probability, they would continue their nefarious activities of trafficking and/or dealing in intoxicants clandestinely obviously for large stake and easy illegal profit making mode. In the present prevailing scenario, the drug trafficking, trading and its use has acquired dimensions of an epidemic which not only effects the economic policies of the State but corrupts the system apart from leaving the impact of producing sick society. I will not be shy of saying that anti drug justice is a criminal dimension of social justice as drug addiction forms vitals of the society alongwith illicit money generation by drug trafficking.

10. Considering the fact that the quantity recovered is commercial in nature and such huge quantity can by no stretch of imagination be assumed to be planted on the petitioner, also the custody suffered by the petitioner is only 1 year, 1 month and 17 days as of now, this Court has no doubt to record that offences under the NDPS Act are very serious in nature and against the society at large wherein no discretion is to be exercised in favour of such petitioner and as such no leniency is to be shown.

11. In the light of the aforesaid discussions made hereinabove, the present petition stands dismissed being devoid of merits.

(SANDEEP MOUDGIL)
JUDGE

19th JULY, 2023
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1. Whether speaking/ reasoned : Yes / No
2. Whether reportable : Yes / No