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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-43802-2021 (O&M)****Date of decision: July 03, 2023**

Sandeep Singh @ Sonu

...Petitioner

versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Arjun Veer Sharma, Advocate,
Mr. Abhiraj Singh Baweja, Advocate for petitioner.

Ms. Guramrit Kaur, DAG Punjab.

ARUN MONGA, J. (ORAL)

Petitioner seeks bail in criminal case bearing FIR No.34 dated 10.04.2021, registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station Bhikhiwind, District Tarn Taran.

2. Per FIR, during patrolling by ASI Charanjit Singh along with other official, petitioner was signaled to stop motorcycle Hero Deluxe being driven by him, but he tried to slip away by taking U-turn. He was apprehended and was found in possession of 260 grams of Heroin in a plastic bag.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in the present case. In any case, he further canvasses, that contraband allegedly recovered is just 10 grams above commercial quantity of 250 grams. Petitioner has been in custody since 10.04.2021. He further submits that report of chemical examiner is still awaited and it is yet to be ascertained as to what was the actual contraband allegedly recovered from the petitioner.

4. On the other hand, learned State counsel, on instructions from ASI Gurbax Singh opposes the bail petition. She submits that petitioner has committed

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serious offence. He is a habitual offender, as there are six more cases pending against the petitioner. The quantity of contraband recovered in present case is also more than the commercial.

5. Learned counsel for the petitioner submits that as per custody certificate submitted before this court, per own version of prosecution, there are three other cases, and not six, pending against the petitioner. He is already on bail in two cases. He submits that there are total 14 witnesses and out of them 3 have already been examined till date in the present case.

6. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

7. Vide order dated 13.03.2023 passed by a co-ordinate Bench, learned trial Court was directed to expedite the trial and submit its report. Vide letter dated 01.07.2023, report of learned trial Court has been received and is already on record at Flag 'A'. Perusal of the same reveals that supplementary challan against the petitioner was filed on 03.04.2023 and amended charge sheet was framed on 21.04.2023. It is submitted therein that witness ASI Charanjit Singh has been examined, and two other official witnesses have been examined-in-chief and trial is fixed for their cross-examination and for remaining evidence of prosecution.

8. The contraband allegedly recovered in plastic bag of the petitioner is marginally higher than the commercial quantity. Be that as it may, allegations against petitioner are matter of trial at this stage.

9. In the trial, only three prosecution witnesses are examined, out of whom, two are partially examined. Further trial is still likely to take long time, whereas petitioner has already been languishing in jail for the past more than two years in preventive custody.

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10. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.
11. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.
12. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.
13. It is made clear that any observations made hereinabove shall not have any effect on merits the case as the same are for the limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
14. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 03, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No