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2023:PHHC:129169
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-37739-2023 in/and
CRM-M-37292-2023
Date of decision: 5th October, 2023

Chetan Sharma
...Petitioner(s)
Versus
State of Haryana
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sushil, Advocate and
Mr. HPS Ishar, Advocate for the petitioner.
Mr. Rajiv Sidhu, DAG, Haryana.

AVNEESH JHINGAN, J (Oral):

CRM-37739-2023

This application is filed for placing on record copy of order
dated 1st September, 2023 as Annexure P-5.

For the reasons mentioned in the application, the same is
allowed. Annexure P-5 is taken on record.

Main case

1. This 3rd petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
18	24 th January, 2022	Rajound, Kaithal	15(c) and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985

2. Learned counsel for the petitioner claims parity with
co-accused Bhupinder Singh @ Billu who was granted regular bail by
this court on 1st September, 2023.

3. The following order dated 1st September, 2023 was passed
by this Court in CRM-M-42291-2023:-

“1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C seeking regular bail in FIR No.0018, dated 24.01.2022, under Sections 15 (c) 29 of NDPS Act, 1985, registered at Police Station Rajaund, District Kaithal, Haryana.

2. Learned counsel for the petitioner vehemently contends that its a case of false implication, wherein the alleged recovery of 65 Kgs of poppy husk has been planted upon the petitioner, which is marginally over and above the commercial quantity of 50 Kgs. He further contends that out of total 14 prosecution witnesses only one has been examined so far, after framing of charges on 03.08.2022, which curtails the right of the petitioner for speedy trial and expeditious disposal, as enshrined under Article 21 of the Constitution of India, as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court passed in Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131.

3. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He prays for dismissal of the present petition on the ground that the petitioner is involved in one another case i.e. FIR No.34/2019, under Sections 143, 341 of IPC, registered at Police Station Parwanoo, Solan, Himachal Pradesh, meaning thereby, he is not having clean antecedents.

4. Be that as it may, this Court crystallizes the fact that the petitioner is allegedly found to be in possession of 65 Kgs of poppy husk, which is marginally over and above the commercial quantity of 50 kgs. As far as the pendency of another case is concerned, which is stated to have been pending in the State of Himachal Pradesh, however, this court does not have any territorial jurisdiction and it is for that Government to consider and examine the allegations levelled in those FIRs, which are neither part of the present case nor have been produced by either of the parties.

5. Looking into the totality of facts and the discussions made hereinabove, this Court is of the firm view that no useful purpose would be served by keeping the petitioner behind the bars for uncertain period, wherein bail is a rule and jail is an exception and it would also violate the principle of right to speedy trial and expeditious disposal under Article 21 of Constitution of India, as has been discussed hereinabove.

6. In light of the above, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of trial Court/Duty Magistrate, concerned.

7. The present petition is, hereby, allowed.”

4. Learned counsel for the State though opposes the prayer for

presented. He is not in a position to distinguish the case of the petitioner qua the co-accused so far as grant of bail is concerned.

5. Without commenting on the merits of the case, on the basis of parity of petitioner vis-a-vis co-accused so far as grant of bail is concerned and though the investigation is complete conclusion of trial is likely to take time, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

6. The petition is allowed.

7. Since the main case has been allowed, pending application if any is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

5th October, 2023

Parveen Sharma

1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No