

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-43863-2021

Date of Decision: 1.5.2023

Sarabjit Singh @ Sonu @ Sarabjit Maahla

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. K.S.Brar, Advocate
for the petitioner.

Mr. Hakam Singh, AAG, Punjab.

KARAMJIT SINGH, J.

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.52 dated 18.4.2020 registered for the offences punishable under Sections 21, 27-A, 29 of NDPS Act at Police Station Phase-IV, SAS Nagar, Mohali.

2. The allegations in nutshell are that on 18.4.2020, the police received secret information and then apprehended the petitioner and one Kulwinder Singh and recovered 800 grams of Heroin from the car in which both of them were travelling; that their accomplice namely Shampy Singh who was travelling in separate Scorpio car succeeded in escaping. The petitioner and Kulwinder Singh were arrested at the spot.

3. Counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and is in custody for the last more than

3 years and is having no criminal antecedents under NDPS Act. He further

submits that there is no independent corroboration to the prosecution version and the trial is going on at very slow pace. He further submits that co-accused/Kulwinder Singh is already granted regular bail by Coordinate Bench of this Court vide order dated 6.9.2021 (Annexure P-3) and another co-accused Shampy Singh is given concession of anticipatory bail vide order dated 10.9.2020 (Annexure P-2) also by Coordinate Bench of this Court. He accordingly made prayer that the petitioner is also entitled to grant of regular bail.

4. Present petition is opposed by the State counsel who on instructions from ASI Paramjit Singh submits that commercial quantity of Heroin was recovered from the petitioner and co-accused Kulwinder Singh by the police on 18.4.2020 and that the trial is going on and 8 witnesses are examined out of total 29 witnesses on behalf of the prosecution. State counsel further submits that rigors of Section 37 of NDPS Act are applicable in the instant case. However, the State counsel has not disputed the fact that the petitioner is incarcerated for the last more than 3 years.

5. I have considered the submissions made by the counsel for the parties.

6. In the present case, the police is stated to have recovered commercial quantity of Heroin from the petitioner and co-accused Kulwinder Singh who were travelling in a Swift Dzire car. Co-accused Kulwinder Singh is already granted bail by Coordinate Bench of this Court vide order Annexure P-3. The petitioner is in custody for the last more than 3 years. It will take considerable time to terminate trial as till date, only 8 witnesses are examined out of total 29 witnesses from the side of the

prosecution.

7. Hon'ble Supreme Court in **SLP(Crl.) 6690 of 2022 (Dheeraj Kumar Shukla v. State of U.P.)**, decided on 25.01.2023), has granted bail to the accused in a case pertaining to recovery of commercial quantity of contraband on account of his long incarceration of about 02 years and 06 months.

8. In **SLP(Crl.) 5769 of 2022 (Nitish Adhikary @ Bapan v. State of West Bengal)**, decided on 01.08.2022) Hon'ble Apex Court granted bail to the accused in a case relating to recovery of commercial quantity of contraband after he had undergone custody for a period of 01 year and 07 months.

9. Similarly, Coordinate Bench of this Court in its order dated 16.02.2023 in **CRM-M-24168 of 2022 (Mandeep Singh v. State of Punjab)**, granted bail to the accused involved in a case relating to commercial quantity of contraband on the ground that he has been incarcerated for about 02 years and 08 months.

10. In the circumstances as detailed above, the petitioner is able to make out his case within the scope of Article 21 of the Constitution of India which confers right of speedy trial. In view of long custody, sufficient mitigating circumstances are made out for grant of bail to the petitioner even in light of embargo provided under Section 37 of NDPS Act.

11. In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate

concerned. However, in case the petitioner is found to be involved in any other similar case in future, the State shall be at liberty to seek cancellation of bail granted to by him by this Court.

(KARAMJIT SINGH)
JUDGE

May 1, 2023
Paritosh Kumar

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