

CRM-M-49161-2022

Date of decision: 10.02.2023

Rashpal Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**Present:** Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Anup Singh, AAG, Punjab.

NAMIT KUMAR, J.

This petition has been filed under Section 439 Cr.P.C. seeking regular bail in a case bearing FIR No.204 dated 03.08.2022 under Sections 21(b) of the NDPS Act, 1985 registered at Police Station City Malout, District Sri Muktsar Sahib, Punjab.

Brief facts of the case are that on 03.08.2022; in the area of PS City Malout, the petitioner along with his other co-accused was found in conscious possession of 20 grams of *heroin*, which they were carrying without any permit or license and, consequently, FIR was registered.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. He is in custody since 03.08.2022; co-accused have been granted regular bail by the trial Court; investigation has been completed; challan has been presented on 29.09.2022; charges have been framed on 10.11.2022 and out of total 15 prosecution witnesses, none has been examined yet and the trial proceedings are fixed on 27.02.2023 for prosecution evidence and likely to take considerable time to conclude.

The learned State counsel has opposed the prayer of grant of bail to the petitioner and submitted that the petitioner is a habitual offender as he is involved in three other NDPS matters and two cases of IPC.

Learned counsel for the petitioner submits that the petitioner is involved in two other NDPS matters, wherein, he has been granted bail and in the third case bearing FIR No.87 of 2021 under Section 18 of the NDPS Act, registered at Police Station Badhni Kalan, the petitioner is not an accused.

Learned counsel for the petitioner submits that the petitioner cannot be denied the concession of bail merely on account of pendency of other cases and has referred to the judgment rendered by the Hon'ble Supreme Court of India in 'Prabhakar Tewari Vs. State of U.P. and Another', 2020 (1) R.C.R. (Criminal) 831.

To the same effect is the judgment of the Hon'ble Apex Court in 'Maulana Mohd. Amir Rashadi Vs. State of U.P. and Another', 2012 (2) SCC 382, wherein it has been held as under: -

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

Heard counsel of both the parties and perused the records.

Keeping in view the fact that the challan has already been presented against the petitioner, charges have been framed and out of 15 prosecution witnesses, none has been examined and the other co-accused have already been granted regular bail by the trial Court, the likelihood of trial being prolonged, the present petition is allowed. Culpability, if any,

would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Thus, without commenting upon the merits of the case, the petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

The petition stands disposed off accordingly.

However, nothing stated hereinbefore shall be construed as an expression of opinion *qua* the merits of the present case.

10.02.2023
Neha

(NAMIT KUMAR)
JUDGE

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