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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CRM-M-48814-2023

Date of decision : 03.10.2023

Ved Parkash**..... Petitioner****versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. J.S. Dhaliwal, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.0653 dated 10.12.2021, registered for the offences punishable under Sections 20 of the NDPS Act (Section 29 of the NDPS Act added later on) at Police Station Sector-58, Faridabad.
2. Petitioner is stated to be in custody since 11.12.2021. As per the case of the prosecution, it has been alleged as under:-

“xx xx xx

5. As per case of prosecution, on 10.12.2021, ASI Rakesh Kumar alongwith other police officials was present on National Highway, village Seekri, Faridabad and on receiving a secret information, nakabandi was done and during checking, a Tata Truck bearing registration No.CG-04HY-6754 was seen coming from Palwal aide and secret informer pointed towards it and on seeing the police party, the driver of the said vehicle tried to run away but

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the driver was apprehended along with one other person. On enquiry, they disclosed their names as Panchanan Mehanti and Surender and during search of the said truck, 10 plastic bags containing 167 Kg 'Ganja' were recovered and the same were recovered from their conscious possession. After following due procedure and making compliance of different provisions of the Act, they were produced before the Court and the accused were sent to judicial custody.

6. During personal search of the accused Panchanan, two mobile phones i.e. Samsung and Duos and Cellecor, wherein SIM Card bearing No.8328887595 and 8954891034 were there, were found and during personal search of accused Surender Guntha, mobile make Realme wherein SIM No.8917573146 was there, was found. During their interrogation, they disclosed the name of co-accused Amit Duriya, resident of Orissa as the supplier and they also disclosed the name of co-accused Harsh.

7. During investigation, statements of the account of co-accused Amit, Harsh and petitioner were collected and it revealed that from June 2021 to December 2021, Harsh had deposited/transferred Rs.9,20,230/- in the account of co-accused Amit, who is the main accused/supplier. It also revealed that in the month of January 2021, petitioner/Ved Parkash had deposited Rs.2,05,000/- in total through different transaction in the account of accused Harsh.

8. At the time of arguments, learned counsel for the petitioner submitted that petitioner was interested to buy a property of co-accused Harsh, so amount was paid in the year 2020 and later on, the said amount was returned back and after 2020,

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petitioner has no concern with co-accused Harsh, however, the bank details speaks otherwise. During investigation, CDRs of mobile phones of the petitioner and co-accused were also collected and examined.

9. From the CDRs of the mobile phones, it revealed that petitioner/Ved Parkash had called from his mobile phone no.9625021056 to mobile no.8984891034 belonging to accused Panchanan three times on 9/10.12.2021 and called co-accused Harsh for thirty times on his mobile no.9958509668 from 23.6.2021 to 14.10.2021.

10. Another phone having SIM no.9910125626 was recovered during personal search of Ved Parkash/petitioner and from CDR of the said mobile phone, it revealed that petitioner had called co-accused Amit Duriya on his mobile no.9348723318 for thirty times from 23.6.2021 to 14.10.2021. From his CDR, it also revealed that petitioner had called co-accused Harsh on his mobile no.8700233107 for 864 times from 3.1.2021 to 5.11.2021. From the CDRs, it revealed that petitioner was in contact with other accused i.e. from whose possession contraband was recovered, supplier of the property and even with Harsh Kumar, who is having financial transaction with the supplier. So, this Court is of the view that arguments of learned counsel for the petitioner that some amount was paid to Harsh in respect of transfer of property in the year 2020 is baseless and is just a concocted story and on the other hand, it is prima facie clear that the petitioner was very much involved in commission of offence and he was in touch with the other accused.

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11. Petitioner is having criminal antecedents and there are other FIRs in addition to FIR mentioned above and the details of which are as under-

1. *FIR No.175/2020, under Sections 269, 188 IPC, PS Badarpur South East Delhi*

2. *FIR No.701/2015, under Sections 323, 341, 379, 34 IPC, PS Tilak Nagar, Delhi*

12. Considering the fact that commercial quantity of Ganja has been recovered in this case and the evidence against the petitioner regarding his involvement, this Court does not find any merit in the present bail application and accordingly, the same is dismissed. File be consigned to the record room.”

3. Counsel for the petitioner submits that in the present case though there is stated to be money transaction *inter se* between the petitioner and Amit, who is stated to have transferred the said amount further to Harsh. There is no allegation that any contraband was recovered from the petitioner.

4. The petitioner is behind bars for more than 01 year and 09 months. Investigation already stands concluded and even the trial has proceeded as 06 out of 23 witnesses stand examined. Further reliance is being placed upon order passed by Apex Court in the case of **Nitish Adhikary @ Bapan vs. The State of West Bengal** dated 01.08.2022, whereby while granting bail to the offender it was observed as under:-

“As per the office report dated 29.07.2022, copy of the show cause notice along with Special Leave Petition was supplied to the Standing Counsel for the State of West Bengal and separate notice has been served on the State also. However,

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no one has entered appearance on their behalf.

The petitioner seeks enlargement on bail in F.I.R. No. 612 of 2020 dated 17.10.2020 filed under Section 21(c) and 37 of the NDPS Act, registered at Police Station Bongaon, West Bengal.

During the course of the hearing, we are informed that the petitioner has undergone custody for a period of 01 year and 07 months as on 09.06.2022. The trial is at a preliminary stage, as only one witness has been examined. The petitioner does not have any criminal antecedents.

Taking into consideration the period of sentence undergone by the petitioner and all the attending circumstances but without expressing any views in the merits of the case, we are inclined to grant bail to the petitioner.

The petitioner is accordingly, directed to be released on bail subject to him furnishing bail bonds to the satisfaction of the Trial Court.

The Special Leave Petition is disposed of on the aforestated terms.

Pending application(s), if any, shall stand disposed of.”

5. Keeping in view of above, the present petition is allowed in the same terms as passed in ***Nitish Adhikary @ Bapan's case (supra)***. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned. However, in addition to conditions that may be imposed by the Trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions :-

- (i) The petitioner shall not mis-use the liberty granted.

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- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence similar to the one alleged in the present case.
- (v) The petitioner shall deposit his passport, if any with the trial Court.
- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number without permission of the trial Court.
- (vii) The petitioner shall not in any manner try to delay the trial.

6. In case of breach of any of the aforesaid conditions and those which may be imposed by the Trial Court, the prosecution shall be at liberty to move cancellation of bail of the petitioner.

7. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

03.10.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No