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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-1785-2023****Date of Decision: 16.09.2024**

MITHLESH SINGH

....Petitioner

VERSUS

STATE OF PUNJAB

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. P.S. Jammu, Advocate for the petitioner.

Mr. Inderjeet Singh, DAG, Punjab.

KARAMJIT SINGH, J.

Prayer in the present petition under Section 439 of Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.140 dated 02.09.2022 registered for the offences punishable under Section 18-C, 61, 85 of NDPS Act at Police Station Sirhind, District Fatehgarh Sahib, Punjab.

2. The allegations in nutshell are that petitioner was apprehended on 02.09.2022 and 3 Kg of opium was recovered from his possession by the police.

3. Counsel for the petitioner *inter alia* submits that petitioner is falsely implicated in the present case and is incarcerated for the last more than 2 years and is having no criminal antecedents. It is further submitted that it will take time for the trial to conclude, So, prayer is made that no gainful purpose will be served by prolonging the judicial custody of the petitioner.



4. Present petition is resisted by the State Counsel, who on instructions from Inspector Sudhir Singh Malik submits that commercial quantity of opium was recovered in the present case and thus rigors of Section 37 of NDPS Act are applicable. It is further submitted that trial is going on. However, the State counsel has not disputed the fact that petitioner has already in custody for the last more than 2 years and is having no criminal history.

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

6. Admittedly, the petitioner is in custody for the last more than 2 years and is having no criminal history and it will take considerable time for the trial to terminate. In view of the fact that the trial is being delayed, embargo provided under Section 37 of the NDPS Act can be diluted to an extent and the petitioner can be enlarged on bail keeping in view the right to a speedy trial as mandated under Article 21 of the Constitution of India.

7. In light 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.

(KARAMJIT SINGH)
JUDGE

16.09.2024
Priyanka Thakur