

2024:PHHC:068259



219 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-1327-2024
Decided on:-15.05.2024

Rajwinder Singh @ HappyPetitioner..

vs.

State of PunjabRespondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Amit Arora, Advocate,
for the petitioner.

Mr. Rahul Jindal, AAG, Punjab.

HARKESH MANUJA J. (Oral)

1. By way of present petition filed under Section 439 of the Code of Criminal Procedure, 1973, prayer has been made for grant of regular bail pending trial in case FIR No.164 dated 25.08.2021 registered under Sections 21 and 23 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Sections 21-C, 25, 27-A, 29 of the NDPS Act and Sections 473, 411, 120-B and 34 IPC added later on), at Police Station Kathu Nangal, District Amritsar Rural, wherein, the petitioner has been implicated on the basis of disclosure statement made by co-accused Davinder Kumar @ Shah, who was implicated on the basis of disclosure statement made by Sikander Hayat relating to recovery of 20 kg of *heroin*.

2. Learned counsel for the petitioner submits that the petitioner has been implicated merely on the basis of disclosure statement and no recovery at all has been effected from him. Investigation already stands

concluded with the filing of challan and the petitioner is in custody for the past 01 year & 06 months as also the trial is likely to take some time.

3. On the other hand, prayer made herein has been opposed at the instance of learned State counsel while referring to the antecedents of the petitioner, who is stated to be involved in 07 more cases of NDPS Act, though he stood acquitted in 05 out of those 07, whereas, the trial is in progress in the remaining two. He further submits that the recovery involved in the case in hand is of huge quantity i.e. 20 kg of *heroin*, besides recovery of Creta car used in the offence which even belongs to the petitioner. He further submits that in other cases, a sum of Rs.65 lakhs as drug money and gold was also recovered from the petitioner and thus, he prays for dismissal of the present petition.

4. I have heard learned counsel for the parties and gone through the paper book. I am unable to find substance in the submissions made on behalf of the petitioner.

5. Considering the antecedents of the petitioner, who is stated to be involved in multiple cases relating to the provisions of NDPS Act, though acquitted in 05 and in remaining two the trial being in progress and in one he is behind the bars for a period of 01 year & 08 months, mere fact that the petitioner has been implicated on the basis of disclosure statement and is nominated last in the chain of sequence, cannot be a ground to grant him the relief of regular bail. Considering the huge recovery of contraband, combined with the fact that car of the petitioner has also been used in the alleged offence, his *prima facie* involvement cannot be ruled out & there is strong possibility of the petitioner working in joint cartel in the smuggling of narcotics, across international borders. Thus, considering the nature as well

as gravity of offence, the prayer made hereby is declined.

6. Even the Hon'ble Supreme Court in case of ***“State By The Inspector of Police vs B. Ramu” 2024(1) Law Herald (SC) 366***, has held that in case where the alleged recovery is of commercial quantity and there are prior criminal antecedents then discretionary relief of regular bail shall not be granted. Relevant paras No.9, 10, 11 thereof are reproduced under:-

“9. A plain reading of statutory provision makes it abundantly clear that in the event, the Public Prosecutor opposes the prayer for bail either regular or anticipatory, as the case may be, the Court would have to record a satisfaction that there are grounds for believing that the accused is not guilty of the offence alleged and that he is not likely to commit any offence while on bail.

10. It is apposite to note that the High Court not only omitted to record any such satisfaction, but has rather completely ignored the factum of recovery of narcotic substance (ganja), multiple times the commercial quantity. The High Court also failed to consider the fact that the accused has criminal antecedents and was already arraigned in two previous cases under the NDPS Act.

11. In case of recovery of such a huge quantity of narcotic substance, the Courts should be slow in granting even regular bail to the accused what to talk of anticipatory bail more so when the accused is alleged to be having criminal antecedents.”

7. In view of the discussion made herein above, the present petition is thus, dismissed being devoid of merits.

15.05.2024
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(HARKESH MANUJA)
JUDGE

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