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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-929-2024

Decided on : 15.07.2024

Sudhir @ Sudhir Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Vikas Bishnoi, Advocate
for the petitioner

Mr. Gaurav Bansal, DAG Haryana

KIRTI SINGH, J. (Oral)

1. This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.191 dated 25.06.2023 registered under Section 20(b)(ii)(C) of NDPS, 1985 (Sections 27-A, 29 of NDPS Act and Section 201 IPC added later on) at Police Station Uklana, District Hisar.

2. Learned counsel for the petitioner *inter alia* submits that allegedly there was recovery of 1.5 Kg Charas/Sulfa and 2.5 Kg of same contraband from co-accused Rakesh and Jagroop respectively. Learned counsel further submits that petitioner is brother-in-law of one of the co-accused namely Jagroop and he was not named in the FIR. The petitioner was apprehended on the basis of disclosure statement of co-accused Jagroop. He further submits that no recovery has been effected from the petitioner and he was nominated only on the basis of disclosure statement of his brother-in-law. Learned counsel further submits that the petitioner

is in custody since 09.07.2023.



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3. On the other hand, learned State counsel has filed the custody certificate dated 14.07.2024, which is taken on record. As per custody certificate, the petitioner has undergone an actual custody of 07 months and 07 days. He further submits that charges were framed on 03.01.2024 and out of a total of 23 prosecution witnesses, none has been examined so far. He also submits that the petitioner is not involved in any other case.

4. Heard.

5. The veracity of the allegations leveled against the petitioner and the co-accused shall be established during the course of the trial. Admittedly, the petitioner is in custody since 09.07.2023 and further incarceration of the petitioner would not serve any purpose.

6. Even further, right to speedy trial is a part of reasonable, fair and just procedure guaranteed under Article 21. This constitutional right cannot be denied to the accused as is the mandate of the Apex Court in ***Hussainara Khatoon and others Vs. Home Secretary, State of Bihar, Patna, (1980) 1 SCC 98***, wherein it was held as under:

*"10. Directions given by this Court in **Hussainara Khatoon (supra)** to this effect were left to be implemented by the High Courts **Hussainara Khatoon and ors. (VII) etc. v. Home Secretary, Bihar and ors. Etc. -(1995) 5 SCC 326-para 2** are as follows:*

"2. Since this Court has already laid down the guidelines by orders passed from time to time in this writ petition and in subsequent orders passed in different cases since then, we do not consider it necessary to restate the guidelines periodically because the enforcement of the guidelines by the subordinate courts functioning in different States should now be the responsibility of the different High Courts to which they are subordinate. General orders for



release of undertrials without reference to specific fact-situations in different cases may prove to be hazardous. While there can be no doubt that undertrial prisoners should not languish in jails on account of refusal to enlarge them on bail for want of their capacity to furnish bail with monetary obligations, these are matters which have to be dealt with on case-to-case basis keeping in mind the guidelines laid down by this Court in the orders passed in this writ petition and in subsequent cases from time to time. Sympathy for the undertrials who are in jail for long terms on account of the pendency of cases has to be balanced having regard to the impact of crime, more particularly, serious crime, on society and these considerations have to be weighed having regard to the fact-situations in pending cases. While there can be no doubt that trials of those accused of crimes should be disposed of as early as possible, general orders in regard to judge strength of subordinate judiciary in each State must be attended to, and its functioning overseen, by the High Court of the State concerned. We share the sympathetic concern of the learned counsel for the petitioners that undertrials should not languish in jails for long spells merely on account of their inability to meet monetary obligations. We are, however, of the view that such monitoring can be done more effectively by the High Courts since it would be easy for that Court to collect and collate the statistical information in that behalf, apply the broad guidelines already issued and deal with the situation as it emerges from the status reports presented to it. The role of the High Court is to ensure that the guidelines issued by this Court are implemented in letter and spirit. We think it would suffice if we request the Chief Justices of the High Courts to undertake a review of such cases in their States and give appropriate directions where needed to ensure proper and effective implementation of the guidelines. Instead of repeating the general directions already issued, it would be sufficient to remind the High Courts to ensure expeditious disposal of cases...."

(emphasis added)



trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. The Apex Court in "***Abdul Rehman Antulay and others v. R.S. Nayak and another***", 1992(2) RCR (Criminal) 634 observed that Right to Speedy Trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial. And court also observed that the Right to Speedy Trial from the point of view of the accused are:

- 1. The period of remand and pre-conviction detention should be as short as possible. In other words, the accused should not be subjected to unnecessary or unduly long incarceration prior to his conviction;*
- II. The worry, anxiety, expense and disturbance to his vocation and peace, resulting from an unduly prolonged investigation, inquiry or trial should be minimal; and*
- III. Undue delay may well result in impairment of the ability of the accused to defend himself, whether on account of death, disappearance or non-availability of witnesses or otherwise.*

8. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate.

9. However, the petitioner (or any one on his behalf) shall prepare FDR in the sum of Rs. 50,000/- and deposit the same with the trial Court. The same would be liable to forfeited as per law in case of absence of the petitioner from trial without any sufficient cause.

10. Order dated 13.02.2024 is made absolute.

11. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed



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independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(KIRTI SINGH)
JUDGE

July 15, 2024
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No