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

CRM-M-2700-2024

DATE OF DECISION: 09.07.2024

SIMRANJIT SINGH ALIAS KAKA ...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vipul Jindal, Advocate for the petitioner(s).
Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in FIR No. 129, dated 13.07.2023, under Section 15 of The Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Machhiwara, District Khanna/Ludhiana.
2. Learned counsel for the petitioner contends that arrest of the petitioner along with the alleged recovery of poppy husk is planted one. He would refer to the photographs attached with the petition i.e. Annexures P-2 and P-3 respectively to show that the police has shown registration of the FIR and arrest of the petitioner on 13.07.2023 wherein at serial No. 3(b) the date of information received at police station is 13.07.2023 at 14:52 hrs (2:52 PM) and a general diary reference was also made at entry No. 024 with the even date and time. The FIR came to be registered on that very date as is evident from vernaculars of the said document at 3:42 PM at police station



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Machhiwara, District Khanna whereas while referring to the photograph Annexure P-3, the police officials can be seen entering the house of the petitioner along with servant of the present petitioner on 13.07.2023 at around 00:48 PM.

3. He further contends that in fact the police party has conducted the reki as well as raided the house of the petitioner on 12.07.2023 at late hours i.e. 10:13 PM, as it evident from the photographs (Annexure P-2). On the strength of these facts, it is contended that alleged recovery of poppy husk weighing 71 kg has been placed upon the petitioner showing it recovered from two different places i.e. on 13.07.2023 from the parked truck on that very date as well which is evident in the photographs but on 12.07.2023 nothing was recovered which has now been shown on 13.07.2023, 35 kg poppy husk therefrom, apart from 36 kg poppy husk from his resident.

4. Interestingly, once the truck was parked there in the intervening night of 12-13/07/2023, the version of the prosecution case is highly doubtful and there is strong probablility of his acquittal in this case.

5. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner is behind bars for last 11 months and 23 days who is not involved in any other case. He on instructions from SI Jagtar Singh has no reasonable explanation to the aforesaid disputed facts raised by



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counsel for the petitioner. Though he submits that there is admittedly recovery of 71 kg of poppy husk which is commercial in nature and on that account, the petitioner does not deserve the concession of bail.

6. Having heard learned counsel for the respective parties, this Court is of the considered view that story of the prosecution has become tainted in light of the fact that police party has raided the house of the petitioner at 12.07.2023 at late hours i.e. 10:13 PM with the truck standing in front of the petitioner's house but neither any recovery was shown nor the State Counsel could shown any zimni/rapat roznamacha showing the timing of raid conducted on 12.07.2023 but even on 13.07.2023. The photographs attached with the petition i.e. Annexure P-3 is of 00:48 PM whereas the information to the police has been shown in the FIR to be received at 2:52 PM on 13.07.2023 which seems to be a concocted story prepared by the prosecution.

7. In view of the above, the Court is of the view that since the petitioner has already suffered sufficient period in custody who is not involved in any other case cannot be detained behind the bars till the guilt is proved beyond reasonable doubt, whereas in the instant case, challan stands presented and charges are yet to be framed, trial is prolonged and likely to take long time in the light of the fact that out of 13 prosecution witnesses, none has been examined and detaining the petitioner behind the bars for an indefinite period would amount to violation of Article 21 of the Constitution of India and is against the



principle “Bail is a rule, jail is an exception” as elucidated in the judgement of Apex Court in “**Dataram Singh vs. State of Uttar Pradesh and another;** (2018) 3 SCC 22”.

8. A Division Bench of this High Court in **Rajender Singh vs. State of Haryana, 2022(2) R.C.R. (Criminal) 85** has held that a right under Article 21 of the Constitution of India includes right to speedy trial and expeditious disposal which is also in public interest primarily showing concern on a following view point.

- (a) 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;
- (b) the worry, anxiety, expense and disturbance to his vocation and peace, resulting from an unduly prolonged investigation, inquiry or trial should be minimal; and
- (c) 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.

9. In view of the aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

10. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

11. Petition is allowed in above terms.

(SANDEEP MOUDGIL)
JUDGE

09.07.2024
anuradha

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