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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-3863-2024
Date of Decision: 15.04.2024

Ranjit Singh @ Jeeta Petitioner

Versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Satnam Singh Gill, Advocate
for the petitioner.

Mr. Sartaj Singh Gill, Sr. D.A.G., Punjab.

HARSH BUNGER J. (ORAL)

1. Petitioner (Ranjit Singh @ Jeeta) has filed this third petition under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the petitioner in case FIR No.50, dated 06.03.2020, under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985, and Section 201 of the Indian Penal Code, 1860, registered at Police Station Patran, District Patiala.
2. The earlier two petitions filed by petitioner seeking regular bail were withdrawn by petitioner vide order dated 16.03.2023 (Annexure P-1) and 17.11.2023 (Annexure P-2).
3. Status report by way of affidavit dated 06.03.2024 of Mr. Daljit

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Singh Virk, P.P.S., Deputy Superintendent of Police, Sub Division Patran, District Patiala, has been filed on behalf of State of Punjab, which is already on record.

4. Custody certificate dated 14.04.2024 of the petitioner has been filed by learned State counsel in Court today, which is taken on record, subject to all just exceptions.

5. Briefly, the aforesaid case FIR was registered on the basis of a *ruqa* prepared by ASI Paramjit Singh, who stated that on 06.03.2020, he along with his fellow employees, in a private vehicle, was present at bypass Patran, near Liquor Vend Chowk in the area of Village Kahangarh, for the purpose of patrolling and checking of suspected persons. Then, at about 7:30 P.M., ASI Paramajit Singh received a secret information from an informer that Ranjit Singh @ Jeeta (petitioner herein), Gurwinder Singh @ Mintu and Gurpreet Singh @ Kala have a Swift Car without number and they used to bring dried broken piece of poppy pods in the said car from other state and supply the same in Punjab and that day (06.03.2020) they have parked the said car outside Kals Washing Point, situated in Mistri Market, Kahangarh and have connived with Lachhman Singh-owner of Kals Washing Point and stored the dried broken piece of poppy pods in his garage. After complying with the provisions of Narcotic Drugs and Psychotropic Substances Act, the aforesaid case FIR was registered on the basis of *ruqa*.

6. As per the status report, the investigation was carried out by Inspector Baljit Singh, who along with police party reached at the spot, where ASI Paramjit Singh produced the apprehended persons-Gurwinder Singh @ Mintu, Gurpreet Singh @ Kala and Lachhman Ram. ASI Paramjit

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Singh informed Inspector Baljit Singh that when he reached at the spot then he saw seven heavy plastic bags having loose seals, wherein poppy pods were clearly visible and three youngsters were moving their hands in it. ASI Paramjit Singh further informed that present petitioner (Ranjit Singh @ Jeeta), on seeing the police party fled away from the spot in the said Swift Car. After following the due procedure, the search was carried out and from seven plastic bags, *poppy pods* weighing 10 kg each (in total 70 kg of *poppy pods*) was recovered. All the bags were marked as No.1 to No.7, duly sealed and taken into police possession.

7. Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in the present case and he was not arrested at the spot. It is submitted that the alleged recovery has already been effected and nothing has been recovered from the petitioner. Learned counsel for the petitioner submits that the petitioner was arrested in this case on 22.12.2021 and since then he is in custody. It is further submitted that the investigation in this case is complete; challan/supplementary challan stands presented and trial is going on. It is stated that there are total 18 prosecution witnesses, however, only 7 witnesses have been examined till date, therefore the conclusion of trial is likely to take some time and no useful purpose would be served by keeping the petitioner behind the bars. Learned counsel for the petitioner contends that the bail application under Section 439 of the Code of Criminal Procedure, filed on behalf of the petitioner before the Court of learned Judge Special Court, Patiala has been wrongly declined vide order dated 11.11.2022 (Annexure P-3). Learned counsel for the petitioner submits that the petitioner is ready to abide by all the conditions as

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may be imposed by this Court or by the trial Court. Learned counsel further submits that the petitioner is also willing to furnish security in the form of Fixed Deposit Receipt (F.D.R.) before the concerned Court, so as to ensure his presence before the Court on each and every date of hearing. Accordingly, prayer for grant of regular bail is made.

8. Per contra, learned State counsel opposes the prayer of petitioner for grant of regular bail on the ground of seriousness and gravity of the offence. It is submitted that the recovered contraband in the instant case falls under the category of 'commercial quantity' and thus, rigors of Section 37 of the N.D.P.S. Act are attracted in this case. While referring to the custody certificate, learned State counsel has submitted that besides the present case, the petitioner is also involved in several other cases. Learned State counsel further states that there is an apprehension that in the event of grant of bail, the petitioner may influence the witnesses or may even abscond to delay the trial. Accordingly, prayer has been made for dismissal of the present petition.

However, learned State counsel has not disputed that the petitioner was not arrested at the spot and petitioner has undergone actual custody in this case for a period of two years, three months and twenty two days (as on 14.04.2024). It is also not disputed that out of 18 prosecution witnesses, only 7 witnesses have been examined till date.

9. Learned counsel for the petitioner, in rebuttal, has relied upon the judgment of Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012(2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen while deciding a bail

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application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced herein below :-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

10. I have heard learned counsel for the parties and perused the paper book, status report dated 06.03.2024 as well as custody certificate dated 14.04.2024.

11. Hon'ble the Supreme Court in the case of ***Dheeraj Kumar Shukla Versus The State of Uttar Pradesh***, SLP (Criminal) No. 6690/2022 decided on 25.01.2023 observed that in case of long custody period, involving quantity recovered to be of commercial nature, where the trial is yet to commence, though charges had been framed, the condition of Section 37 of NDPS Act can be dispensed with. In the case of ***Bhupender Singh Versus Narcotic Control Bureau*** (2022) 2 RCR (Crl.) 706, the Division Bench of this Court observed with regard to achieving balance between right to speedy trial guaranteed under Article 21 of the Constitution of India and rigors of Section 37 of NDPS Act. Similarly, in the case of ***Shariful Islam alias Sarif Versus The State of West Bengal*** SLP (Crl.) No. 4173/2022, decided on 04.08.2022, Hon'ble the Supreme Court granted bail to the petitioner in a case of recovery of commercial quantity of contraband, considering incarceration for over 1 year and 6 months and there being no likelihood of completion of trial in the near future.

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12. Hon'ble Apex Court in case titled ***Dataram Singh v. State of Uttar Pradesh & Anr, 2018(2) RCR (Criminal) 131***, has held that freedom of an individual cannot be curtailed for indefinite period, especially when his/her guilt is yet to be proved. It has been further held by the Hon'ble Apex Court in the aforesaid judgement that a person is believed to be innocent until found guilty.

13. Hon'ble Apex Court in case titled ***Umarmia Alias Mamumia v. State of Gujarat, (2017) 2 SCC 731***, has held delay in criminal trial to be in violation of right guaranteed to an accused under Article 21 of the Constitution of India.

14. In ***Manoranjana Singh alias Gupta v. CBI, (2017) 5 SCC 218***, Hon'ble Apex Court has held that the object of the bail is to secure the attendance of the accused in the trial and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial.

15. Pertinently, appropriate directions can be issued for securing the attendance of the petitioner during the trial.

16. In the instant case, the petitioner was not arrested at the spot but was apprehended subsequently. Petitioner is in custody since 24.12.2021; supplementary challan stands presented on 31.01.2022 and trial is going on; however, only 7 witnesses have been examined out of total 18 witnesses. Therefore, this Court has reason to believe that the trial in this case is likely to take some time to conclude.

17. So far as the apprehension expressed by learned State counsel that the petitioner may influence the witnesses or may even abscond in order

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to delay the trial, suffice it to state that in the event of any such conduct, the prosecution can always approach the competent Court for cancellation of bail. Accordingly, it is observed that the State/Prosecuting Agency/State police shall be at liberty to observe the behaviour of the petitioner during the bail period, and in case it feels that the petitioner is indulging in influencing any of the witnesses or tampering with the prosecution evidence in any manner or otherwise causing interference with the progress of trial, it shall be open for the State/Prosecuting Agency/State police to move to the trial Court for cancellation of the bail, which shall be decided by the trial Court on merits.

18. In view of the above discussion and in the light of judgment in Maulana's case (supra), the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds with two local sureties to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of case/trial and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity. The petitioner shall also appear before the concerned Police Station/Station House Officer on alternate Monday of every month till the conclusion of trial.

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19. In addition, the petitioner (or anyone on his behalf) shall prepare a Fixed Deposit Receipt (F.D.R.) in the sum of Rs.2,00,000/- and submit the same with the trial Court. The same would be liable to be forfeited as per law, in case the petitioner remains absent from trial without any sufficient cause.
20. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.
21. The petition is accordingly disposed of.
22. All pending application(s), if any, shall also stand closed.

15.04.2024
Himani

(HARSH BUNGER)
JUDGE

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| 1. Whether speaking/reasoned | : | Yes/No |
| 2. Whether reportable | : | Yes/No |