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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-3865-2024
Date of decision : 12.03.2024

CHAINA RAMPetitioner

Versus

STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Puran S. Hundal, Sr. Advocate with
Mr. Vikramjeet Singh, Advocate and
Mr. Gurparneet Singh, Advocate for the petitioner.

Mr. Mohit Kapoor, Sr. DAG, Punjab.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.29 dated 25.02.2023 registered for the offences punishable under Sections 18, 29, 61, 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station Tapa Mandi, District Barnala.

2. Custody Certificate of the petitioner has been filed today in Court. The same is taken on record.

3. As per the contents of the FIR it has been alleged as under :

“xxx At about 04.40 p.m. when the Police Party reached near Gate No. 2 of Outer Grain Market, Tapa we saw two clean shaven persons coming from the side of Village Tajo Ke on foot. On seeing the Police Party one young man who was having a Satchel of blue shade on his back gave it to his other companion

and both of them tried to turn towards the side of gate of Grain Market. On suspicion I stopped my vehicle and overpowered both of them with the help of my companions. I asked for their identity at which the first person disclosed his name as Chaina Ram Jatt son of Girdhari Lal Naga, resident of Raghunathpura xxx”

4. Ld. Senior Counsel representing the petitioner submits that in a novel way the petitioner has been implicated despite the fact that no recovery has been made from the petitioner. Recovery is from a blue sachet which admittedly at the time of search and seizure was held by co-accused Mukesh Kumar. He further submits that the petitioner has clean antecedents and has no other case under the NDPS Act. Petitioner is behind bars for more than 1 year and 13 days. Reliance is being placed upon the various orders passed by Coordinate Benches of this Court in **CRM-M-53415-2021** titled as **Jang Kanwar vs. State of Punjab** *decided on* 19th of January, 2022, **CRM-M-37645-2021** titled as **Hari Yadav @ Hariya vs. State of Punjab** *decided on* 11th of February, 2022 and **CRM-M-57485-2022** titled as **Ranjit Singh @ Ranjit Kumar** *decided on* 10th of January, 2023.

5. State Counsel contends that in view of the fact that the commercial quantity has been recovered from the co-accused from a bag which was as per the allegations earlier being carried by the present petitioner, the petitioner cannot escape from his criminal liability and rigors of Section 37 of the NDPS Act would be attracted. However, he does not dispute that the challan stands presented on 13th of June, 2023 and charges have been framed on 19th of August, 2023 and by now, none out of 10 cited witnesses could be examined.

6. Having heard rival contentions of counsels for the parties and after going through records of the case, without commenting on the merits thereof, keeping in view the incarceration suffered by the petitioner and the fact that in almost six months none of the witness could be examined, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

7. However, in addition to conditions that may be imposed by the Trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions :-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any with the trial Court.
- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cellphone number without permission of the trial Court.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by the Trial Court, the prosecution shall be at liberty

to move cancellation of bail of the petitioner.

9. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

March 12, 2024		(Pankaj Jain)
Dpr		Judge
	Whether speaking/reasoned	: Yes/No
	Whether reportable	: Yes/No