

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-5891-2024
Date of Decision.:20.03.2024

Sandeep Kumar @ Seepa
Vs.
State of Punjab

.....Petitioner
.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Harmanjeet Singh Dhaliwal, Advocate for the petitioner.
Mr. G.P.S. Bhullar, AAG, Punjab.

DEEPAK GUPTA, J. (ORAL)

The petitioner is seeking regular bail by way of petition filed under Section 439 Cr.P.C in case FIR No.109 dated 12.09.2022 registered under Section 18(c), 29 of (Act No.61 of 1985) of the Narcotic Drugs and Psychotropic Substances Act, [for short 'the NDPS Act'] registered at Police Station Arniwala, District Fazilka.

2. As per allegations, 06 kg 500 gm of opium was recovered from the petitioner and co-accused Jashanpreet Singh @ Jashan on 12.09.2022 when both of them were travelling in a car. Petitioner was sitting besides the driver of the car at that time.

3. Learned counsel for the petitioner contends that petitioner has been falsely implicated; that this is his third petition and earlier two petitions were dismissed as withdrawn. Learned counsel further contends that though petitioner is shown to be involved in two more cases pertaining to NDPS Act but in both those cases arising out of FIR No.427 dated 04.12.2023

registered at Police Station City, Faridkot & FIR No.320 dated 11.09.2023 registered at Police Station City, Faridkot, he has already been allowed bail by the Special Court, Faridkot. Copy of those orders has been placed on record. Learned counsel for the petitioner also contends that petitioner is in custody for the last more than 01 year and 06 months and that trial may take time to conclude as not even a single witnesses has been examined so far.

4. Status report by way of an affidavit of Shri Achhru Ram, PPS, Deputy Superintendent of Police, Sub-Division Jalalabad, District Fazilka has been filed on behalf of respondent No.1- State.

5. It is conceded by learned State counsel that though the charges were framed on 26.04.2023 but out of 14 witnesses cited by the prosecution not even a single witness has been examined so far.

6. Learned State counsel has however opposed the petition by pointing out towards the commercial category of the contraband as recovered from the petitioner.

7. No doubt that contraband of commercial category was recovered from the petitioner but Court cannot overlook the custody period of the petitioner, who is already in custody for the last 01 year 06 months and 07 days as per the custody certificate. Petitioner is shown to be involved in two more cases pertaining to NDPS Act but he is on bail in both those cases. Not even a single witness has been examined so far and thus trial is likely to take long time to conclude.

8. Having regard to all the above facts and circumstances, the

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rigors of Section 37 of the NDPS Act is required to be balanced with Article 21 of the Constitution of India guaranteeing Fundamental Right to life and liberty of which speedy trial is a facet.

9. As such without commenting anything further on the merits of the case, this petition is allowed and petitioner is admitted to bail on his furnishing bail bonds/surety bonds to the satisfaction of the Learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

(DEEPAK GUPTA)
JUDGE

March 20, 2024
Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No