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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-10218-2024 (O&M)
Date of decision: 03.09.2024

Karandeep Singh @ Karan ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Anmol Jeevan Singh Gill, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in FIR No. 931 dated 26.10.2022, registered under Section 21 of the NDPS Act, 1985 (Sections 193 and 120-B of IPC and Sections 21(c), 22 and 29 of the NDPS Act were added later on) at Police Station Sirsa City, District Sirsa.
2. Brief facts of the case relevant for the disposal of the present petition are that on 26.10.2022, co-accused Sonu @ Mirchi was apprehended by a police party and recovery of 260 grams of heroin was effected from him. He suffered his disclosure statement to the effect that he had purchased the recovered contraband from co-accused Boda @ Imran @ Sahil and Bevra @ Ajay for a sum of Rs. 2.5 Lakhs for selling the same to others. On 28.10.2022, supplementary disclosure statement of aforesaid co-accused Sonu @ Mirchi was recorded, wherein he stated that Bevra @ Ajay was the relative of Boda @ Imran @ Sahil and only he could tell about Bevra @

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Ajay. Thereafter, for conducting further investigation in the matter, an SIT, headed by DSP, Hq. Sirsa, was constituted. During the course of investigation by the SIT, the names of Rahul Dhingra, Amandeep @ Aman Khalnayak and the present petitioner surfaced in the matter. Co-accused Rahul Dhingra and Yogesh Sharma were arrested on 13.02.2023. The disclosure statement of co-accused Rahul Dhingra was recorded on 14.02.2023, wherein he stated that the present petitioner, who was his school friend, along with other co-accused used to do the business of selling heroin. He further disclosed that co-accused Yogesh was working for the petitioner to sell and purchase the heroin. Since the petitioner was already confined in jail in connection with FIR No. 331 dated 14.11.2022, registered under Sections 21 and 29 of the NDPS Act at Police Station Ding, therefore, he was taken into custody on the basis of production warrant on 06.03.2023. After completion of necessary investigation and usual formalities, *challan* under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner along with co-accused is facing trial for commission of aforesaid offences. He had moved an application before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 17.02.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The petitioner was neither named in the secret information nor he was arrested at the spot. No recovery has been effected from him. The petitioner has been nominated in this case on the basis of the disclosure statement suffered by the co-accused, which is not admissible in evidence as per the ratio of law laid down in ***Tofan Singh vs. State of Tamil Nadu : (2021) 4 SCC 1***. The petitioner is in judicial custody

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since 06.03.2023. Trial is likely to take a long time. No useful purpose would be served by keeping him in custody anymore. It is, therefore, urged that the petition deserves to be allowed.

4. *Per contra*, learned State counsel has vehemently opposed the prayer of the petitioner by submitting that although the petitioner has been nominated in this case on the basis of the disclosure statement suffered by the co-accused, however, during the course of investigation, the complicity of the petitioner has been established. The quantity of the recovered contraband falls under the commercial quantity. hence, the rigors of Section 37 of the NDPS Act would be attracted in this case. The petitioner is a part of a drug smuggling racket and is involved in one more case under the NDPS Act. The trial is going at a proper stage. There are chances of the petitioner's indulging in similar offences, if extended benefit of bail. It is, thus, argued that the petition is liable to be dismissed.

5. I have learned counsel for the parties at considerable length and have also perused the material placed on record.

6. As per the allegations, on receipt of a secret information, co-accused Sonu @ Mirchi was apprehended by the police party and recovery of 260 grams of heroin was effected from. Thereafter, on the basis of the disclosure statement suffered by him, several other persons were also nominated as accused and arrested in this case. The name of the petitioner has surfaced in the disclosure suffered by co-accused Rahul Dhingra with the allegations that they were indulged in the business of selling heroin. An SIT was constituted in this case and a thorough investigation has been made by it, which is apparent from the contents of the status report. The petitioner

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is involved in one more case under the NDPS Act. The investigation in this case has since been completed, *challan* has been filed and out of total 25 prosecution witnesses, 07 witnesses have already been examined by the trial Court. There is nothing on record to show that there would be any undue delay in conclusion of trial. The apprehension expressed by learned State counsel that the petitioner may indulge in similar offences, if extended benefit of bail cannot be stated to be unfounded. Keeping in view the quantity of recovered contraband, the antecedents of the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the petitioner does not deserve to be granted benefit of regular bail, at this stage. Hence, the petition is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

03.09.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>