



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

207

CRM-M-11960-2024

Date of decision: September 11th, 2024

Surinder Guntha

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Jitender Singh Dadwal, Advocate
for the petitioner.

Ms. Trishanjali Sharma, Deputy Advocate General,
Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.653 dated 10.12.2021 under Sections 20 and 29 of the NDPS Act registered at Police Station Sector 58, Faridabad.

2. On the last date of hearing, it had been argued by the learned counsel for the petitioner that the trial had come to a virtual standstill as the prosecution witnesses had not been regularly appearing before the trial Court to get their evidence recorded. In the circumstances, directions had been issued by this Court to the Superintendent of Police, Faridabad, to file an affidavit in the said regard.

3. In compliance of order dated 04.09.2024, affidavit of Commissioner of Police, Faridabad, has been filed in Court, which is taken on record.

4. As per the affidavit, which has been filed today,

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departmental proceedings already stand initiated against the erring police officials, who had absented before the trial Court to get their evidence recorded, without any plausible reason.

5. Be that as it may, in the present case, a specific secret information was received qua the involvement of the petitioner and co-accused Panchanan Mohanti in drug trafficking. Pursuant to the secret information received, the truck in which both the accused, including the petitioner, were travelling was allegedly intercepted by the police, leading to a huge recovery of 167 kilograms of *ganja*, which is multiple times higher than the minimum threshold provided under the NDPS Act for commercial quantity i.e. 20 kilograms. Learned counsel contended that on account of the long custody period of the petitioner, he deserved to be enlarged on bail as the delay in the conclusion of trial is compromising with his right to speedy trial. In support, learned counsel has placed reliance upon *Nitish Adhikary @ Bapan Versus The State of West Bengal, decided on 01.08.2022, Special Leave to Appeal (Crl.) No.5530/2022* titled as *Mohammad Salman Hanif Shaikh Versus The State of Gujarat, decided on 22.08.2022* and the order passed by this Court in *CRM-M-11211-2022* titled as *Gurpreet Singh alias Laddi Versus State of Punjab, decided on 27.07.2023*.

6. No doubt, learned counsel for the petitioner has placed reliance upon orders passed by Hon'ble the Supreme Court in *Special Leave to Appeal (Crl.) No.5769/2022* titled as *Nitish Adhikary @ Bapan Versus The State of West Bengal, decided on 01.08.2022*.

However, on a pointed query put to him as to whether in that case there

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was also specific secret information qua the involvement of the accused in drug trafficking, like in the present case, he has feigned ignorance. Even otherwise, *Nitish Adhikary @ Bapan's case (supra)*, is distinguishable from the facts and circumstances of the instant case as in that case only one witness had been examined, whereas in the instant case, there has been considerable progress in the trial as four witnesses already stand examined.

7. On a pointed query, it has also not been disputed that the recovery affected from the truck in which the petitioner was stated to employed as a Cleaner, was after due compliance of all the mandatory provisions of the NDPS Act.

8. The reliance placed by the learned counsel on an order passed by this Court in *CRM-M-11211-2022* titled as *Gurpreet Singh alias Laddi Versus State of Punjab*, decided on 27.07.2023, is also misplaced given the huge recovery affected in the present case and that too pursuant to a secret information, wherein he had been named, coupled with the fact that in the present case, after the charges were framed, some of the prosecution witnesses have indeed been examined, which fact has not been disputed by the learned counsel for the petitioner.

9. Hence, in the facts and circumstances as enumerated hereinabove, especially keeping in mind the rigours of Section 37 of the NDPS Act, this Court does not deem it fit to enlarge the petitioner on regular bail.

10. The instant petition stands dismissed.



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11. The trial Court is, however, directed to ensure that the trial is concluded expeditiously within the next five months.
12. The prosecution shall also ensure that all the prosecution witnesses appear regularly before the trial Court to get their evidence recorded and the trial is not delayed on account of non-appearance/ non-cooperation of the prosecution.
13. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

September 11th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No