

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

218

CRM-M-17997-2024
Date of Decision.:19.04.2024

Gurwinder Singh @ SaabiPetitioner
Vs.
State of PunjabRespondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Brijesh Nandan, Advocate
for the petitioner.

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.84 dated 09.05.2020 registered under Section 15 of NDPS Act, 1985 Sections 188, 269 of the IPC, 1860 & Section 51(b) of Disaster Management Act, 2005 (Section 25, 29 of NDPS Act, 1985 added later on) registered at Police Station Bilga, District Jalandhar.

2. This is the third petition for the same purpose. The first petition bearing No.CRM-M-29338-2021 (O&M) was dismissed as withdrawn on 05.07.2022 vide Annexure P-3. The second petition bearing No.CRM-M-58896-2022 was dismissed as withdrawn on 13.03.2023 vide Annexure P-4.

3. Learned counsel for the petitioner contends that since the dismissal of the second bail petition, more than one year has elapsed but the trial is not proceeding further and now the custody period of the petitioner is

almost four years.

4. As per the prosecution allegations, co-accused Hardeep Singh @ Deepa and Ramji @ Rama were apprehended by the police on 09.05.2020. 04 Kg of poppy husk from Hardeep Singh @ Deepa and 03 Kg of poppy husk from Ramji @ Rama was effected. During interrogation of Ramji @ Rama, he suffered disclosure statement nominating the petitioner to be the supplier. Petitioner was then arrested and his interrogation and disclosure statement led to the recovery of 140 Kg of poppy husk from his possession.

5. Learned counsel for the petitioner contends that petitioner has been falsely implicated; that no independent witness was joined in the investigation; that it is almost 04 years since the petitioner is in custody and trial is not proceeding and so, he be allowed bail.

6. Notice of motion.

7. Mr. Baljinder Singh, DAG, Punjab accepts notice on behalf of respondent- State.

8. Learned State counsel has opposed the bail petition by pointing towards the commercial category of the contraband as recovered from the petitioner. However, it is conceded by learned State counsel that petitioner is not involved in any other case pertaining to NDPS Act.

9. The custody certificate placed on record by learned State counsel reveals that petitioner is in custody for the last 03 years 11 months and 07 days. It is also informed by learned State counsel that out of 19 witnesses cited by the prosecution only 06 have been examined so far. Thus,

trial is likely to take long time to conclude.

10. Having regard to the above facts and circumstances, particularly the long incarceration of the petitioner in custody and the fact that trial is likely to take long time to conclude, the 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.

11. As such, 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

April 19, 2024
Neetika Tuteja

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