

CRM-M-13183-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-13183-2024

Date of decision: 17.05.2024

Rampartap Alias Guddu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Johan Kumar, Advocate for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C for grant of regular bail in case having FIR No.737 dated 19.10.2023 registered under Sections 22-B and Section 29 of NDPS Act, at Police Station Palla, District Faridabad.

2. The allegations in nutshell are that on 19.10.2023, on the basis of secret information, police apprehended co-accused Virender @ Guddu and recovered 10.390 kg of *ganja* from a bag, he was carrying. At the same time, police recovered 10.790 kg of *ganja* from a bag carried by Subey and recovered 10.760 kg of *ganja* from a bag held by Amar Singh and 10.500 kg of *ganja* from a bag held by Shailender and in total 42.440 kg of *ganja*. That during investigation, all four of them made disclosure, that they purchased aforesaid *ganja* from the present petitioner and consequently, the petitioner was nominated as accused and arrested on 25.10.2023. During



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investigation, no contraband was recovered from the petitioner.

3. The counsel for the petitioner submits that the petitioner is falsely implicated in the present case on the basis of disclosure statement suffered by co-accused. It is further submitted that the said disclosure statement is inadmissible in evidence. It is further submitted that no contraband was recovered from the possession of petitioner who is in custody for the last about 7 months and that it will take time for the trial to conclude. It is further submitted that even from the face of the allegations appearing in the FIR, it is apparent that four persons namely Virender @ Guddu, Subey, Amar Singh and Shailender were apprehended by the police and separate recoveries of approximately 10 kg each of *ganja* were effected from them by the police and the said recovery of *ganja* from each comes under non commercial quantity. It is further submitted that it will take time for the trial to conclude and that in the another 2 cases faced by the petitioner under NDPS Act, he is already given concession of bail by High Court of Judicature at Patna vide orders dated 30.11.2022 and 02.03.2012. So prayer is made that the petitioner be released on bail in the present case.

4. The present petition is resisted by the State counsel who on instructions from ASI Samsudin submits that the recovery effected from four co-accused comes under commercial quantity, it being 42.440 kg of *ganja*. It is further submitted that the aforesaid recovery was effected from Virender @ Guddu, Subey, Amar Singh and Shailender, who after their arrest suffered disclosure statements that they purchased the recovered contraband from the present petitioner. It is further submitted that thereafter, petitioner was arrested and is in custody for the last more than 6 months and

that after completion of investigation, police has presented the challan. However, the State counsel has not dispute the fact that in the present case, no contraband was recovered from the petitioner.

5. I have considered the submissions made by counsel for the parties.

6. It is a matter of evidence, as to whether, the recoveries effected from co-accused persons are to be taken collectively or separately. The petitioner was not named in the FIR and nominated as accused on the basis of disclosure statement suffered by co-accused. The admissibility and veracity of any such disclosure statement will be tested during trial. In the present case, no contraband was recovered from conscious possession or at the instance of the petitioner who is in custody for the last about 7 months and is already enlarged on bail by the Court concerned in another two cases registered under NDPS Act. It will take time for the trial to terminate. In the given circumstances, no purpose is going to be served by keeping the petitioner in custody for any longer period.

7. In light of the above, without expressing any opinion on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing of bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

17.05.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:-	Yes/No