



CRM-M-16187-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-16187-2024
Decided on : 26.09.2024

SUKHRAJ SINGH ALIAS RAJU

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Tushar Sharma, Advocate for
Mr. Rakesh Kumar, Advocate
for the petitioner.

Mr. Vinay Kumar, DAG, Punjab.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 439 of Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.238 dated 25.07.2023, registered under Sections 21(c), 61 and 85 of NDPS Act, at Police Station City Tarn Taran, District Tarn Taran.

2. The brief facts of the present case are that on 25.07.2023, the petitioner was apprehended by the police and 290 grams of heroin was recovered from the possession of the petitioner during personal search.

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. The petitioner has already undergone an actual custody of 01 year, 01 month and 28 days and there is no other case registered against him. He has further placed reliance upon the judgment passed

by Hon'ble Supreme Court in ***Chitta Biswas alias Subhas Vs The State of West***



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Bengal in Criminal Appeal No(s).245/2020 and the judgment passed by the Co-ordinate Bench vide order dated 29.08.2023 in CRM-M-55212-2022 (O&M) titled as ***Sukhchain Singh Alias Kaka Vs. State of Punjab.***

4. Per contra, learned State counsel opposes the submissions made by the learned counsel for the petitioner on the ground that the alleged contraband recovered from the conscious possession of the petitioner, falls within the ambit of commercial quantity, as such, in view of the embargo created by Section 37 of the NDPS Act, the petitioner is not entitled to the concession of regular bail. Learned State counsel has filed the custody certificate dated 25.09.2024 in Court today, which is taken on record. As per the custody certificate, the petitioner has undergone actual custody of 01 year, 01 month and 28 days and there is no other case registered against him. He further on instructions from ASI Jaspal Singh, submits that the charges were framed on 29.01.2024 and out of 13 prosecution witnesses, only one has been examined till date.

5. Heard the rival submissions made by learned counsel for the parties.

6. Admittedly, the charges were framed on 29.01.2024 and out of 13 prosecution witnesses, only one has been examined till date. The petitioner has undergone actual custody of 01 year, 01 month and 28 days and he has clean antecedents. The conclusion of the trial will take considerable time and further incarceration of the petitioner is not required as a prima facie satisfaction under Section 37 NDPS can be recorded in the aforementioned factual scenario.

7. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the

satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner

shall also abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (iii) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (iv) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
- (v) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

8. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

9. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

26.09.2024

Kavita

(KIRTI SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No