



CRM-M-17321-2024

1

223

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-17321-2024

Date of Decision: 23.10.2024

Ramesh Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:-. Mr. Kanwaljeet Singh Brar, Advocate
for the petitioner.

Mr. R.S. Thind, DAG Punjab

KIRTI SINGH, J.(Oral)

The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.178 dated 23.06.2023, under Section 15(C) of NDPS Act, 1985 registered at Police Station Special Task Force, Bathinda Range, District Bathinda.

2. The facts of the present case are that on 23.06.2023, the police party headed by ASI Kulbir Singh were present at Malout, where he received a phone call from ASI Gurmeet Singh that he had stopped a Truck and a car and he had suspicion that there may be some intoxicant substance in the said Truck and Car. Investigating Officer alongwith police party reached at the spot and on checking the car, 4 bags containing 20 Kgs of poppy husk in each were recovered. On checking the Truck, 5 bags containing 20 Kgs. Of poppy husk in each were recovered. The person standing by the side of car disclosed his name as Parminder



CRM-M-17321-2024

2

Singh and the persons standing near the truck disclosed their names as Vijay Pal and Ramesh Kumar. Thus, total 180 Kgs poppy husk was recovered from the aforesaid accused.

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case and he was only the truck driver of the truck from which only 100 Kgs of poppy husk was recovered from two persons. He further submits that the petitioner has undergone actual custody of 01 year, 03 months and 26 days and one more case is registered against him.

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. As per the custody certificate, the petitioner has undergone actual custody of 01 year, 03 months and 26 days and there is one more case registered against the petitioner. Charges were framed on 16.12.2023 and out of 30 prosecution witnesses, 05 prosecution witnesses have been examined. He, however, submits that in view of strict rigors of Section 37 of the NDPS Act and serious allegations against the petitioner, he is not entitled to the concession of regular bail.

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

6. The charges were framed on 16.12.2023 and out of total 30 prosecution witness, only 05 prosecution witnesses have been examined till date. The petitioner has undergone actual custody of 01 year, 03 months and 26 days. Further detention of the petitioner will not serve any useful purpose and will be violation of Article 21 of the Constitution of India including the right to speedy trial, and is against the principle "Bail is a rule, jail is an exception" as elucidated in the judgment of Apex Court in **"Dataram Singh vs. State of Uttar Pradesh and**



7. Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. The Apex Court in "*Abdul Rehman Antulay and others v. R.S. Nayak and another*", 1992(2) RCR (Criminal) 634 observed that Right to Speedy Trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial.

8. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, the charges have been framed and only five prosecution witness have been examined till date. Therefore, this Court is of the view that further incarceration of the petitioner would not serve any purpose.

9. 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 she 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.

10. 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.
11. 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.

23.10.2024
reena

(KIRTI SINGH)
JUDGE

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