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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18050-2024
Reserved on : 27.05.2024
Pronounced on 29.05.2024

Sanchit Gupta Petitioner

Versus

State of Punjab Respondent

CORAM : **HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present : Mr. Amaninder Preet, Advocate
for the petitioner.

Mr. Shekhar Verma, Addl. Advocate General, Punjab
for the respondent-State.

VIKRAM AGGARWAL, J

1. This is the second petition filed by the petitioner under Section 439 of the Code of Criminal Procedure (for short 'Cr.P.C.') for the grant of regular bail in case FIR No.57 dated 09.02.2020, registered under Sections 21 and 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (for short 'the NDPS Act'), at Police Station City Kharar, District SAS Nagar Mohali.
2. The first bail application was dismissed by this Court vide order dated 22.03.2023 (Annexure P-14).
3. The petitioner was apprehended on 09.02.2020 on the basis of a secret information and 60 grams of intoxicant powder (*chitta*) was recovered from him. Subsequently, as per the report of the FSL, the white coloured powder recovered from the petitioner was found to contain 62.5% of



Diphenoxylate Hydrochloride. The contraband recovered from the petitioner fell in the category of commercial quantity. The petitioner was initially arrested on 09.02.2020 and was released on interim bail on 13.04.2020 since the report of the FSL had not been received. After the filing of the report of the FSL, the petitioner surrendered on 01.09.2021 and he is in custody since then. As per the custody certificate filed in the Court today, the petitioner has undergone incarceration of 02 years 11 months 15 days.

4. Learned counsel for the petitioner submitted that after the dismissal of the first bail application on 22.03.2023, fourteen months have gone by but only two more witnesses have been examined. It was submitted that charges were framed on 10.08.2021 and till today only four witnesses out of a total of 13 witnesses have been examined and the petitioner is not responsible for the delay in the conclusion of the trial. It was submitted that the petitioner is infact addicted to drugs and is, therefore, involved in a few other cases under the NDPS Act as well. Learned counsel submitted that the petitioner is a heart patient and is not getting proper treatment in the jail. The thrust of the argument was, however, on the fact that despite the petitioner being in custody for the last almost 03 years, the trial has hardly made any progress for out of a total of 13 witnesses, only 04 witnesses have been examined. It was submitted that this in itself would be a change in circumstances entitling the petitioner to file and maintain the second bail application. Learned counsel urged that the petitioner cannot be endlessly kept in custody waiting for the trial to conclude. It was also submitted that there were gross violations of the procedural requirements as envisaged under Section 50 of the NDPS Act and various other provisions of the NDPS Act.



Learned counsel strenuously urged that under the circumstances, the petitioner deserves to be released on bail.

5. Per contra, the bail application was, with equal vehemence, opposed by learned counsel representing the respondent-State of Punjab. Reference was made to the other cases in which the petitioner is involved and it was pointed out that in one case the petitioner has already been convicted, though, his appeal against the said judgment is pending before this Court and the sentence of the petitioner has been suspended. Learned counsel could, however, not deny the fact that the petitioner is in custody for the last almost 03 years and that out of a total of 13 witnesses, only 04 witnesses have been examined and that the delay in conclusion of the trial is not attributable to the petitioner.

6. Having considered the submissions made by learned counsel for the parties, this Court is of the considered opinion that the instant bail application deserves to be allowed. The petitioner is in custody for the last almost 03 years out of which he has already undergone 02 years 11 months 15 days of actual sentence. When the first bail application of the petitioner was dismissed, 02 witnesses out of a total of 13 witnesses had been examined. Fourteen months after that, only 02 more witnesses have been examined. There is nothing on record to even suggest that delay in the conclusion of the trial is attributable to the petitioner. As regards the medical status of the petitioner, there is no such record on the case file and as such, this Court is not inclined to accept the said argument. Same is the case as regards the alleged violations of the mandatory provisions of the NDPS Act as the same shall be examined at the stage of decision of the trial. However,



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the fact, as has been observed earlier also remains that the petitioner is in custody for the last almost 03 years and the trial has hardly progressed. The petitioner cannot be endlessly made to wait in prison for the trial to conclude. As regards the other matters pending against the petitioner, no doubt, he has been convicted in one case but in his appeal against the said conviction, his sentence has been suspended. The other two cases relate to alleged recoveries of small quantities of contraband.

In view of the aforementioned facts and circumstances and without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on regular bail to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

(VIKRAM AGGARWAL)
JUDGE

29.05.2024
mamta

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No