



CRM-M-20636 of 2024

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222 IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-20636 of 2024(O&M)  
Date of Decision: 17.05.2024

Mahender

...Petitioner

Versus

State of Haryana

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Rakesh Kumar Lathwal, Advocate  
For the petitioner.

Mr. Vishal Kashyap, DAG Haryana.  
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KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case having FIR No. 344 dated 03.09.2019, registered under Section 20 of Narcotic Drugs and Psychotropic Substances Act (for brevity, the NDPS Act) at Police Station Rai, District Sonipat, to which Sections 25, 27 and 29 of NDPS Act were added later on.
2. The allegations in nutshell are that a secret information was received by police party headed by ASI Raj Singh on 02.03.2019 and thereafter police laid *nakabandi* and one car driven by petitioner was signaled to stop and in the meantime the person sitting on the other seat of the car managed to run away. The petitioner was apprehended at the spot and on checking of the vehicle, 230 kgs of ganja patti contained in 12 plastic



bags was recovered. The petitioner disclosed the name of the person who escaped from spot as Shahrukh Khan.

3. The counsel for the petitioner submits that the petitioner who is falsely implicated in the present case is in custody for the last more than 04 years and 08 months and it will take time for the final disposal of the case. The counsel for the petitioner further submits that earlier similar bail applications filed by the petitioner were disposed of and he was not granted concession of bail. On this, the petitioner approached Hon'ble Supreme Court and filed Special Leave to Appeal (Crl. No. 4945 of 2023) which was disposed of by the said Court vide order dated 22.09.2023 with direction that if the trial does not conclude within six months, it will be open to the petitioner to file a fresh application for grant of bail. It is further submitted that the trial Court has failed to conclude the trial within aforesaid period of six months. That in the given circumstances, the petitioner who is having no criminal history under NDPS Act, is entitled to be released on bail.

4. The State counsel, on instructions from ASI Ajmer, submits that in the present case heavy quantity of *ganja patti* was recovered and that trial is going on and prosecution has examined 14 witnesses out of total 22 witnesses and further submits that the trial is progressing ahead but it will take some more time to conclude the trial.

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

6. Personal liberty of a person is one of the object of the Indian Constitution and deprivation of the same can only be in accordance with law



and in conformity with the provisions thereof as stipulated under Article 21 of the Constitution of India. Admittedly, in the present case the petitioner is in custody for the last more than 04 years and 08 months and is not involved in any other case under NDPS Act and it will take time for the trial to conclude and petitioner is not responsible for the delay caused in disposal of the case. In the given circumstances, the prolonged incarceration due to delay in trial infringes Article 21 of Constitution of India and this also amounts to dilution of rigors of Section 37 of NDPS Act. Further the trial Court failed to conclude the trial within stipulated period of 06 months as per the direction dated 22.09.2023 given by the Hon'ble Supreme Court. In light of the above, no purpose is going to be served by detaining the petitioner in custody for any longer period.

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

(KARAMJIT SINGH )  
JUDGE

17.05.2024  
Jiten

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