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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-20685-2024 (O&M)
Date of decision: 31.07.2024

Jaspreet Singh @ Kali ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. S. S. Momi, Advocate
for the petitioner.

Mr. A. S. Samra, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in FIR No. 28 dated 01.09.2023, registered under Sections 22 and 29 of the NDPS Act, 1985 (Sections 25, 27-A of the NDPS Act were added later on) at Police Station State Special Operations Cell, Amritsar.
2. Brief facts of the case relevant for the disposal of the present petition are that on 01.09.2023, on the receipt of a secret information, co-accused Gurbinder Singh @ Bhind, Narinder Singh and Ranjodh Singh @ Jodha were arrested by the police party and recovery of 15 kgs. of heroin was effected from them. The petitioner has been nominated in this case on the basis of the disclosure suffered by the aforesaid said co-accused. The petitioner was arrested on 05.09.2023 in the present case on the basis of production warrant as he was already in jail in connection with some other case. After completion

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of necessary investigation and usual formalities, challan under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner along with co-accused is facing trial for commission of aforesaid mentioned offences. He had moved an application before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 15.04.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The petitioner was not found at the spot and has been involved in this case on the basis of the disclosure statement made by the co-accused, which is not admissible in law against the petitioner. He is in judicial custody since 05.09.2023. The trial is likely to take a long time. No useful purpose would be served by keeping him in custody anymore. It is, therefore, urged that the petition deserves to be allowed. Learned counsel has further argued that co-accused Kuldeep Singh has already been granted concession of regular bail by this Court, vide order dated 18.03.2024 passed in **CRM-M-1183-2024**. To fortify his argument, learned counsel for the petitioner has relied upon the authority of Hon'ble Supreme Court rendered in **Tofan Singh vs. State of Tamil Nadu : (2021) 4 SCC 1**.

4. *Per contra*, learned State counsel has argued that though the petitioner has been nominated in this case on the basis of the disclosure suffered by the co-accused but during the course of investigation, the involvement of the petitioner in the subject crime has been established. The petitioner used to run a network of drug supply even while in jail. He is involved in three more FIRs under the NDPS Act. A huge quantity of heroin was recovered from the co-accused. Even during investigation of the matter, drug money to the tune of Rs. 7 Lakhs was recovered from the co-accused.

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The case of the petitioner is not at par with that of co-accused Kuldeep Singh, as he is not involved in any other case under the NDPS Act, whereas the petitioner is involved in three more FIRs under the NDPS Act. Trial is going on and there is nothing on record to show that there would be any undue delay in conclusion of the same. It is argued that if the petitioner is released on bail, he may tamper with the prosecution evidence or abscond. It is, thus, argued that the petition is liable to be dismissed.

5. I have learned counsel for the parties at considerable length and have also perused the material placed on record.

6. The petitioner has been nominated in this case on the basis of the disclosure made by aforesaid co-accused. The recovery effected in this case is of 15 kgs. of heroin, which falls under the commercial quantity. The allegation against the petitioner is that he had made a Whatsapp group with the co-accused and had sent them to receive the consignment of heroin by paying an amount of Rs. 7 Lakhs but they were apprehended by the police party. The petitioner is shown to be involved in 03 more FIRs under the NDPS Act. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted in this case. It has come during investigation that the petitioner is running a drug smuggling business, despite being behind bars. So far as the claim of the petitioner with regard to parity with the aforesaid co-accused Kuldeep Singh is concerned, it can be stated that the case of the petitioner is not on similar footing as the said co-accused is not shown to be involved in any other case under the NDPS Act. So far as the ratio of law as laid down by Hon'ble Supreme Court in *Tofan Singh*'s case (supra) is concerned, the same is not disputed but it stands clarified by Hon'ble Supreme Court in *State of Haryana*

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vs. Samarth Kumar : 2022(3) RCR (Criminal) 991, wherein it has been held that the advantage of decision of **Tofan Singh**'s case (supra) can be taken at the time of final hearing after conclusion of trial and even at the time of regular bail but that alone cannot form sufficient ground to grant regular bail as other parameters are also required to be looked into as in the present case, the recovery effected from the co-accused falls under commercial quantity and the petitioner is shown to be the kingpin of the subject crime. More so, there is nothing on record to suggest that there would be any undue delay in conclusion of trial. Keeping in view the nature of allegations, the antecedents of the petitioner, the quantity of the recovered contraband, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the petitioner does not deserve to be granted benefit of regular bail, at this stage. Hence, the petition is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

31.07.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No