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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-21378-2024
DECIDED ON: 01.08.2024

BALJIT SINGH @ MURLI

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Amit Arora, Advocate
for the petitioner.

Mr. J.S. Rattu, DAG Punjab.

SANDEEP MOUDGIL, J (ORAL)

RELIEF SOUGHT

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., seeking regular bail to the petitioner in FIR No.149, dated 25.06.2023, under Section 21 of Narcotic Drugs and Psychotropic Substances, 1985 (for short NDPS Act) Section 29 of NDPS Act added later on, registered at Police Station Jandiala, District Amritsar Rural.

SUBMISSIONS:

ON BEHALF OF PETITIONER

2. Learned counsel for the petitioner has submitted that the petitioner has been nominated as an accused on the basis of disclosure statement of the co-accused namely Jagjpreet Singh @ Jaggu from whom the alleged recovery of 270 grams of Heroin has been effected. It is further submitted that the co-accused has already been granted the concession interim bail by the trial Court vide order dated



12.09.2023 till the receipt of FSL report. He further submitted that even as per the prosecution story and the FIR itself, no recovery was effected from the conscious possession of the petitioner. The assertion is that the bar contained under Section 37 of the NDPS Act will not apply to the present petitioner particularly in view of the fact that the alleged recovery was not effected from the conscious possession of the petitioner.

ON BEHALF OF RESPONDENT-STATE

Custody certificate of the petitioner filed by learned State counsel is taken on record. According to which, the petitioner has suffered incarceration for a period of 7 months and 29 days, as of now.

Learned State counsel has opposed the grant of regular bail to the petitioner on the ground that since the recovery from the petitioner and other co-accused was 270 grams of Heroin, which falls in the category of commercial quantity, the prayer of the petitioner is hit by the bar contained under Section 37 of the NDPS Act. Apart from this the petitioner is a habitual offender, as he is involved in number of other cases of similar nature but he could not controvert the fact that the co-accused namely Jagjpreet Singh @ Jaggu from whom the alleged recovery has been effected, has already been enlarged on interim bail by the trial Court till the receipt of FSL report.

ANALYSIS

3. Considering the custody period undergone by the petitioner i.e., 7 months and 29 days, as of now added with the facts that nothing has been recovered from the conscious possession of the petitioner, who has been nominated as an accused on the basis of disclosure statement suffered by co-accused namely Jagpreet Singh @ Jaggu and challan has not been presented by the prosecution agency till today, which is sufficient for this Court to infer that trial is likely to take



considerable time, which would also violate the principle of right to speedy trial and expeditious disposal as enshrined under Article 21 of Constitution of India, as has been time and again discussed by this Court, while relying the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***, this Court is of the view that no useful purpose would be served by keeping the petitioner behind the bars for an indefinite period.

4. The larger bench of the Apex Court in ***“Toofan Singh vs. State of Tamilnadu”; 2020 (1) RCR (Criminal) 1***; has held that the confessional statement made by co-accused under Section 67 of NDPS Act is a very weak piece of evidence and cannot be a basis for the conviction of a person and has to be weighed very cautiously along-with other piece of evidences.

5. It would be apposite to mention that in the present case, though FIR stands registered on 25.06.2023 but till today challan has not been presented, which shows the callous and lackadaisical approach of the investigating agency.

6. In the case in hand, the petitioner has undergone the custody for a period of 7 months and 29 days, as of now, though he is involved in other cases of similar nature and in that regard, reliance can be placed upon the judgment of this Court rendered in CRM-M-25914-2022 titled as ***“Baljinder Singh alias Rock vs. State of Punjab”*** decided on 02.03.2023, wherein, while referring Article 21 of the Constitution of India, this Court has held that no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases.

7. In such eventuality, strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would lend the



petitioner in a situation of denial the concession of bail.

DECISION

8. In view of the aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.
9. The present petition is, hereby, allowed.
10. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

01.08.2024
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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No