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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-26776-2021 (O&M)
Date of decision: 07.03.2024

Ashok Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Ruhani Chadha, Advocate for the petitioner.

Mr. Inderjeet Singh, DAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail in case having FIR No.134 dated 29.06.2019, under Section 21 of NDPS Act, registered at Police Station Goraya, District Jalandhar Rural.
2. The allegations in nutshell are that on 29.06.2019, police recovered 800 grams of heroin from possession of the petitioner, who was arrested at the spot.
3. The counsel for the petitioner *inter alia* submits that petitioner was falsely implicated in the present case and remained in custody for period of more than 2 years and 7 months and thereafter, released on interim bail by this Court. The counsel for the petitioner further submits that the

petitioner is having no criminal history under NDPS Act and that trial is not progressing ahead and the petitioner is not responsible for the said delay in conclusion of trial. The counsel for the petitioner further submits that in the given circumstances, no purpose is going to be served by keeping the petitioner behind the bars for any longer period. In support of his contentions, the counsel for the petitioner placed reliance on decision of Hon'ble Supreme Court in Hasanujjaman and others Vs. State of West Bengal SLP (Crl.) No.3221 of 2023 decided on 04.05.2023 wherein in a case of recovery of commercial quantity of contraband, the accused was granted bail on account of the fact that he was in custody for more than 1 year and 4 months.

4. The present petition is resisted by the State counsel who submits that the present case involving recovery of commercial quantity of contraband is covered by strict provision of Section 37 NDPS Act. It is further submitted that the trial is going on but it will take time for its completion. The State counsel has not disputed the fact that the petitioner who is presently on interim bail, remained in custody for 2 years and 7 months and is not involved in any other criminal case under NDPS Act.

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

6. As per prosecution version, commercial quantity of contraband was recovered from petitioner. Total custody period of petitioner comes out to be more than 2 years and 7 months, as per the custody certificate furnished by the State counsel, which also shows that petitioner is having no criminal antecedents under NDPS Act. Admittedly, it will take time for the

trial to conclude. In the present case, petitioner is not responsible for delay in trial. In the given circumstances, the effect of Section 37 of NDPS Act will be diluted, in light of the right to speedy trial as enshrined in Article 21 of the Constitution of India. In the given circumstances, no fruitful purpose is going to be served by keeping the petitioner in custody for any longer period.

7. For the foregoing reasons, without expressing on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

07.03.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No