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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-24806-2024

Date of decision: 22.05.2024

Kunal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Brijender Kaushik, Advocate for the petitioner.

Mr. Neeraj Sheoran, DAG, Haryana.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C. seeking grant of regular bail in case having FIR No.286 dated 24.07.2023 under Sections 15 (c) and 29 of NDPS Act at Police Station Sadar Narnaul District Mahendergarh.

2. The allegations in nutshell are that police received secret information that one unattended motor cycle having some contraband was lying parked. On the basis of the said information, the police party reached the disclosed place near under bridge in the area of Rewari Narnaul road where one hero honda motor cycle was found parked and there were two bags tied to it. On checking of the said bags, 21.994 kg of *ganja* was recovered. After completion of investigation at the spot, the case property was deposited in the *malkhana*. During investigation, Rohtash owner of the motor cycle disclosed that he had already sold the said vehicle to Banti son of Manoj Kumar. One Sachin



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also joined investigation. Thereafter, Harsh @ Sonu was arrested in this case, who also disclosed the name of the present petitioner and thereafter, petitioner was arrested in the present case on 22.12.2023.

3. The counsel for the petitioners submits that FIR in this case was registered against unknown person as one motor cycle having two bags tied to it was found lying abandoned. The counsel for the petitioner further submits that at the first instance, police arrested Harsh @ Sonu being the owner of the motor cycle. That the petitioner was later on arrested by the police on the basis disclosure statement of co-accused Harsh @ Sonu and is in custody for last about 5 months and during investigation, no contraband was recovered from conscious possession of the petitioner who is having no criminal history under NDPS Act. It is further submitted that after completion of investigation, challan was presented and charges also framed but it will take time for trial to conclude as till date, no prosecution witness is examined. So, prayer is made that the petitioner be released on regular bail.

4. The present petition is resisted by the State counsel who on instructions from Jai Pal Singh submits that no doubt, the FIR was registered against unknown person, but later on the petitioner was arrested on the basis of the disclosure statement suffered by Harsh @ Sonu who was arrested by the police at the first instance. However, it is made clear that no contraband was recovered from conscious possession of the petitioner who is in custody for the last about 5 months and is not involved in any other case under NDPS Act. The State counsel has not disputed the fact that now

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the trial is going on but till date no prosecution witness is examined.

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

6. Admittedly, FIR in this case was registered against unknown person who left behind motor cycle having two bags tied to it and 21.994 kg of *ganja* was recovered from said bags by the police. As per police version, during investigation it was found that the said motor cycle belonged to Harsh @ Sonu and accordingly, he was arrested. There are also allegations that Harsh @ Sonu suffered disclosure statement against the present petitioner and on the basis of the same, the petitioner was arrested and is in custody since 22.12.2023. The relevancy and admissibility of the disclosure statement suffered by the co-accused against the present petitioner will be tested during trial. As has been admitted by the State counsel, no contraband was recovered from conscious possession of the petitioner and further, it will take time for trial to conclude. Thus, no purpose is going to be served by detaining the present petitioner in custody for any longer period.

7. In view of the above, without commenting 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 bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

22.05.2024

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No