



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-31453-2024
Date of Decision.:12.07.2024

Hamid

Petitioner

Vs.

State of Haryana

Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. Mohammad Arshad, Advocate
for the petitioner.

DEEPAK GUPTA, J. (ORAL)

The petitioner is seeking regular bail by way of 2nd petition filed under Section 439 Cr.P.C in case FIR No.0248 dated 06.05.2023 under Section 22(c) of Narcotic Drugs and Psychotropic Substances Act, 1985 (Act No.61 of 1985) [for short, 'the NDPS Act'] registered at Police Station Hodal, District Palwal. His earlier bail petition bearing No.CRM-M-47178-2023 was dismissed by this Court vide a detailed order dated 19.03.2024 (Annexure P-8).

2. Learned counsel for the petitioner contends that there are change in circumstances inasmuch as co-accused Pawan Kumar Khandelwal and Dharmendra have since been allowed bail by this Court vide orders Annexures P-3 and P-4. Learned counsel also contends that trial is not proceeding as only 02 witnesses have been examined so far.

3. Learned counsel for the petitioner has referred to *“Dheeraj Kumar Shukla v. The State of Uttar Pradesh”, SLP (Criminal) No.6690/2022 decided*



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on 25.01.2023; “Bhupender Singh v. Narcotic Control Bureau” (2022) 2 RCR (Crl.) 706; “Shariful Islam @ Sari v. The State of West Bengal” SLP (Crl.) No.4173/2022; “Munasi Mashi v. State of Punjab”, CRM-M-31504-2022 decided on 06.02.2023.

4. Notice of motion.

5. Mr. Randhir Singh, Addl. AG, Haryana accepts notice on behalf of respondent- State.

6. Learned State counsel has pointed out that recovery of huge quantity of contraband was effected from the petitioner. Learned State counsel also pointed out that co-accused Pawan Kumar Khandelwal and Dharmendra were allowed bail by this Court after noticing that no recovery had been effected from them and therefore, petitioner cannot claim parity as contraband was recovered from him. Learned State counsel also informs that trial is proceeding inasmuch as 04 witnesses have already been examined by the prosecution.

7. As far as authorities cited by learned counsel for the petitioner are concerned in *Dheeraj Kumar Shukla’s case (supra)*, the bail was allowed in view of the long custody of the accused, since trial was yet to commence. In *Bhupender Singh’s case (supra)*, it was observed by Division Bench of this Court that balance is to be maintained between right to speedy trial guaranteed under Article 21 of the Constitution of India and rigors of Section 37 of NDPS Act. In *Shariful Islam @ Sarif’s case (supra)*, bail was allowed by Hon’ble Supreme Court in case of recovery of commercial quantity of contraband, after



finding that there was no likelihood of completion of trial in the near future. Similar were the facts in *Munasi Masih’s case (supra)*.

8. None of the authorities as noticed above are applicable to this case because as pointed out by learned State counsel trial is proceeding and 04 witnesses have already been examined.

9. For all the reasons as above and also the detailed reasons as given by this Court in its order dated 19.03.2024 (Annexure P-8), this Court does not find any merit in this petition.

Dismissed.

(DEEPAK GUPTA)
JUDGE

July 12, 2024
Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No