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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Sr. No.215

**CRM-M-32642-2024(O&M)
Date of decision : 09.09.2024**

Kuldeep Singh @ Deep

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. D.S. Bhinder, Advocate, for the petitioner.

Mr. R.S. Thind, DAG, Punjab.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.192 dated 03.12.2023, under Sections 21 & 29 of NDPS Act, 1985, registered at Police Station Barnala, District Barnala.

2. Learned counsel for the petitioner submits that allegedly, 262 grams of heroin was recovered from the co-accused. He submits that the petitioner has been falsely implicated in this case and he has not been named in the FIR. He has been nominated as an accused on the basis of disclosure statement of the co-accused and nothing incriminating has been recovered either from the person or the conscious possession of the petitioner. The petitioner has undergone actual custody of 04 months and 27 days and there are 14 other criminal cases registered against him, however, in all cases he is on bail. He vehemently contends that the petitioner has been made a scapegoat by the police. He has fairly submitted that the petitioner was earlier implicated in FIR No.45 dated 03.04.2020 at the same police station,

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under Sections 21, 22, 25, 27 & 29 of NDPS Act and the petitioner was found to be falsely implicated and thus, the learned Sessions Judge, Barnala issued a show cause notice to the investigating officer who had arrested the petitioner in FIR No.45 dated 03.04.2020, despite the bail having been granted by this Court vide order dated 01.10.2021 in a petition bearing CRM-M-14194-2020 (Kuldeep Singh Vs. State of Punjab) and, it was observed that the action be initiated against the investigating officer for the contempt of Court. He submits that to settle the score with the petitioner, after passing of the order dated 06.06.2022, the petitioner has been falsely implicated in 05 different FIRs, out of which in one FIR, he has been granted interim bail and in another, notice has been issued. He submits that all these FIRs are of the same police station and for the alleged recovery of similar contraband. He submits that even otherwise, the investigation is already complete in the present case.

3. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He states that the petitioner was actively involved in the commission of the offence. He has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone actual custody of 04 months and 27 days and there are 14 other criminal cases registered against him, however, in all cases he is on bail. He on instructions from the concerned investigating officer submits that charges have been framed on 07.09.2024. He also submits that out of a total of 15 prosecution witnesses, none has been examined till date. He however, submits that in view of the

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serious allegations against the petitioner, he is not entitled to the concession of regular bail.

4. Heard the rival submissions made by learned counsel for the parties.

5. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, charges have been framed. Out of total 15 prosecution witnesses, none of the prosecution witness has been examined till date and the conclusion of the trial will take a considerable time. The petitioner undergone actual custody of 04 months and 27 days. Therefore, this Court is of the considered view that further incarceration of the petitioner will not serve any purpose.

6. As regards the submission of learned State counsel that petitioner is involved in one more criminal case, reference is placed upon the judgment of the Hon'ble Supreme Court in **Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382** in which it is held that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced herein-below:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

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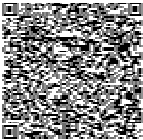
7. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

- (I) The petitioner will not tamper with the evidence during the trial.
- (II) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (III) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (IV) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
- (V) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

8. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

9. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

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Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

09.09.2024

Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No