



CRM-M-34213-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-34213-2024
Decided on : 22.10.2024

Satnam Singh @ Satta

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Prateek Pandit, Advocate
for the petitioner

Mr. Kamalpreet Bawa, AAG 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.62 dated 26.03.2024 registered under Sections 22, 29 of NDPS Act registered at Police Station Sultanpur Lodhi, District Kapurthala.

2. The facts of the present case are that on 26.03.2024, the police party was performing regular patrolling duty. The petitioner and co-accused were standing on side of road, who on seeing the police party took out polythene bags from their pockets and threw them. The petitioner and co-accused were apprehended who disclosed their names and on inspecting the polythene bags 300 intoxicant tablets were found in polythene bag thrown by the petitioner and 400 intoxicant tables were found in polythene bag thrown by the co-accused.

Learned counsel for the petitioner submits that the petitioner has been



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falsely implicated in the present case and the alleged recovery from the petitioner is only 300 intoxicant capsules which amounts to 90.6 gms as recovery is to be considered independent of the recovery effected from co-accused and falls under the non commercial quantity. He further submits that the petitioner was involved in four cases under NDPS Act/Excise Act, in which he is on bail. Learned counsel has placed upon the order dated 05.05.2023 passed by the Co-ordinate Bench of this Court in CRM-M-21794-2023 titled as ***Sandeep Singh vs. State of Punjab*** and he further submits that co-accused have been granted benefit of regular bail vide order dated 15.07.2024 passed in CRM-M-16352-2024 titled as ***Pritma Devi alias Pratima Devi vs. State of Punjab*** and order dated 08.08.2024 passed in CRM-M-37379-2024 titled as ***Bablu alias Bablu Kumar Vishwakarma vs. State of Punjab***.

4. Per contra, learned State counsel has filed the custody certificate dated 21.10.2024 in Court today, which is taken on record. As per custody certificate, the petitioner has undergone an actual custody of 06 months and 23 days and there are four more criminal case registered against him. Moreover, on instructions he submits that charges were framed on 26.09.2024 and out of 08 prosecution witnesses, none has been examined till date. However in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

5. Heard.

6. As regards the submission of learned State counsel that petitioner is involved in four more criminal cases, 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 other/another case(s). 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.”

7. Regarding recovery of 700 capsules made from both the accused, reliance can be placed upon judgment rendered by Hon'ble Supreme Court in ***Amarsingh Ramjibhai Barot v. State of Gujarat, (2005) 7 SCC 550***, wherein it was observed that when two accused are found carrying contraband, the quantity of contraband carried by both the both accused is not to be added to bring it within the meaning of commercial quantity. Relevant part of the judgment is reproduced below:

"7. The learned counsel appearing for the appellant urged only one contention in support of the present appeal. He contended that the High Court fell into an error in taking the total quantity of the offending substances recovered from the two accused jointly and holding that the said quantity was more than the commercial quantity, warranting punishment under Section 21(c) of the NDPS Act. He contended that as far as the appellant is concerned, the High Court erred by assuming that there was criminal conspiracy within the meaning of Section 29 of the NDPS Act, and erroneously proceeded under the said section. The High Court fell into a further error of assuming that because Section 29 was applicable, the total quantity of opium recovered was 920 grams plus 4.250 kgs. The counsel urged that because of this error the High Court took the



wrong view that the total recovered opium was of "commercial quantity" and, therefore, attracted Section 21(c) of the NDPS Act.

8. Although, at first blush, the argument of the learned counsel appeared attractive, on careful appreciation of the facts on record we are satisfied that the High Court judgment is fully justified and needs to be upheld. It is true that the High Court proceeded on the footing that there was a criminal conspiracy between the appellant and the deceased, Danabhai Virabhai Rabari. In our view, however, there was no warrant for this conclusion at all as there is no evidence to suggest that there was any such abetment and/or criminal conspiracy within the meaning of Section 29 of the NDPS Act. The appellant and Danabhai Virabhai Rabari were found together, but individually carrying the recovered substances. Hence, it was not possible for the High Court to take the view that Section 29 was attracted.

•9. The High Court was justified in its conclusion that the appellant could not have been punished under Sections 17 and 18 of the NDPS Act."

8. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. The quantity recovered from the petitioner falls under the non-commercial quantity. The petitioner has undergone an actual custody of 06 months and 23 days. Out of 08 prosecution witnesses, none has been examined. The trial of the case will take considerable time and no useful purpose will be served by detaining the accused in custody.

9. 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.

10. 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.

11. 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.

(KIRTI SINGH)
JUDGE

October 22, 2024
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No