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**223 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-38549-2024

Date of Decision: 04.09.2024

Ajay Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Brijesh Nandan, Advocate for the petitioner
(through VC).

Mr. J.S. Arora, DAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Petitioner has approached this Court by way of present second petition praying for granting him regular bail in case FIR No.247 dated 26.08.2023, under Sections 18/61/85 of NDPS Act 1985 registered at Police Station City Kharar, District SAS Nagar.

2. Succinctly stated facts of the case are that on 26.08.2023, Police party while on patrolling and checking for bad elements and vehicles, laid naka on the road of Jamna Apartment Kharar leading towards Kurali. On suspicion, they stopped a car bearing No.PB-46-AG-6460. Three young persons were sitting in the car. On asking, the driver of the car disclosed his name as Ranjit Singh and the person sitting on co-driver seat disclosed his name as Ranjodh Singh and the person sitting on rear seat disclosed his name as Ajay Singh (petitioner). During checking of the car one carry bag of black colour was recovered. Offer under Section 50 of the NDPS of the Act was given for checking of the same. On checking the same, 2.600 Kgs of opium was recovered from the accused. They failed to produce any licence



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regarding the possession of the same and thus, all the accused were arrested on the spot. Samples were drawn and sent to the FSL and the investigation commenced. The petitioner approached the Court of learned Judge, Special Court, SAS Nagar (Mohali) praying for grant of regular bail, however, on hearing both the sides, learned Court declined the same vide order dated 03.10.2023. The petitioner earlier approached this Court by way of filing CRM-M-54409-2023, however, the same was allowed to be dismissed as withdrawn vide order dated 19.01.2024. Hence, the petitioner is before this Court by way of filing the present second petition praying for grant of regular bail.

3. It has been contended by counsel for the petitioner that petitioner was falsely implicated in this case. It is submitted that neither the petitioner was driving the car nor he is the registered owner of the car. He submits that as per case of the prosecution, co-accused Ranjit Singh was driving the car, whereas, the petitioner was allegedly sitting on the rear seat. It was submitted that co-accused Ranjit Singh has been granted bail by this Court vide order dated 25.07.2024. He submits that recovery was effected from a public place, however, no independent witness was joined by the Police. He submits that even otherwise, the alleged recovery effected from the car was 2.600 kgs of opium, which is marginally above the commercial quantity. It has been vehemently submitted that the case of the petitioner is at par with that of co-accused Ranjit Singh. He has further submitted that the petitioner has no criminal antecedent and thus, he deserves to be granted bail.

4. Per contra, learned State counsel has opposed the submissions



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made by counsel for the petitioner. He submits that the petitioner was arrested on the spot alongwith the co-accused and recovery of contraband was effected from the car in which the petitioner alongwith his co-accused was travelling. He submits that 2.600 kgs of opium was recovered from the car, which is a commercial one and thus, provisions of Section 37 of NDPS Act are attracted. However, he submits that case of the petitioner is at par with that of the co-accused, namely, Ranjit Singh, who has been enlarged on bail by this Court vide order dated 25.07.2024. On instructions, he further submits that challan is presented and charges are framed. He further submits that out of 13 prosecution witnesses, none has been examined.

5. Heard.

6. On hearing counsel for the parties and perusing the record, it is apparent that the petitioner along with co-accused was arrested by the police on 26.08.2023. Police party while patrolling arrested the petitioner alongwith two co-accused, out of which co-accused Ranjit Singh, who was driving the car has already been granted bail by this Court vide order dated 25.07.2024. The Investigation is complete and charges are framed. However, as submitted before this Court, no prosecution witness has since been examined. The petitioner is behind bars since 26.08.2023. There is nothing on record to show that the petitioner is involved in any other case. Similarly situated co-accused has already been granted bail by this Court.

7. As held by the Hon'ble Supreme Court in ***Mohd Muslim @ Hussain Vs. State (NCT of Delhi), 2023 LiveLaw(SC)260***, this Court is of the opinion that the case of the petitioner is covered by the ratio laid down by the Hon'ble Supreme Court. In the abovesaid case Hon'ble Supreme



Court expressed its views as under:-

19. A plain and literal interpretation of the conditions under Section 37 (i.e., that Court should be satisfied that the accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special conditions as enacted under Section 37 can be considered within constitutional parameters is where the court is reasonably satisfied on a prima facie look at the material on record (whenever the bail application is made) that the accused is not guilty. Any other interpretation, would result in complete denial of the bail to a person accused of offences such as those enacted under Section 37 of the NDPS Act.

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21it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable.

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23. There is a further danger of the prisoner turning to crime, "as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal"²² (also see Donald Clemmer's 'The Prison Community' published in 1940²³). Incarceration has further deleterious effects - where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.'

8. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both



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the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.

9. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

04.09.2024
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Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No