



211

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

CRM-M-39478-2024

Date of decision : 13.11.2024

Ranbir**.....Petitioner****versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Ms. Bhupinder Kaur, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, A.A.G., Haryana.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed by the petitioner under Section 483 of BNSS Act praying for grant of regular bail in case FIR No.45 dated 05.03.2023, under Section 20 of NDPS Act, 1985 registered at Police Station Dujana, District Jhajjar.

2. Succinctly the facts of the case are that on 05.03.2023 the Police party while on patrolling received an information to the effect that Ranbir S/o Ram Singh (present petitioner) is involved in selling the intoxicated substances, who is moving around on motorcycle bearing No.HR-42B-7259 with the contraband and if barricading is laid, he can be arrested along with the contraband. On finding the information reliable, FIR was registered and the police party laid the barricade. Thereafter, notice under Section 42 of NDPS Act was sent and the barricading was laid. One person, thereafter, was seen coming on a motorcycle. On asking, he disclosed his name as Ranbir S/o Ram Singh and a bag was hanging on the handle of the motorcycle. He was given the notice of search and on



conducting the search 2 kg of Charas was recovered from the said bag. He failed to produce any licence for possession of the contraband and thus, he was arrested on the spot. Thereafter, the petitioner approached the Ld. Additional Sessions Judge, Jhajjar, for grant of bail, however, after hearing both the sides, the same was declined by the Learned Additional Sessions Judge, Jhajjar vide order dated 12.09.2023. Aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

3. It has been contended by counsel for the petitioner that the petitioner has been falsely implicated in the present case. She submits that the FIR has been registered on the basis of a secret information, however, there is a gross violation of the mandatory provisions of Section 42 of the NDPS Act in the present case. She submits that compliance of Section 50 of the NDPS Act is also not made out. She submits that recovery was effected from the petitioner at a public place, however, no independent witness from the public was joined by the police party. She submits that even otherwise, the petitioner is behind bars since 05.03.2023 and till date no witness has been examined. She submits that the prosecution is intentionally not examining the witnesses to prolong the incarceration of the petitioner and hence, the trial Court had issued theailable warrants for securing the presence of the prosecution witnesses. She has submitted that though the petitioner is involved in other cases, however, out of those cases he has been acquitted in some cases and in some cases he is on bail. She submits that in the facts and circumstances of the present case, he deserves to be granted regular bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits the quantity



recovered from the petitioner is 2 kg of Charas, which is a commercial quantity and thus, the provisions of Section 37 of NDPS Act are attracted in the present case. He submits that the petitioner is a habitual offender as he is involved in other cases as well. He has produced the custody certificate, which reflects that the petitioner is not involved in cases under the NDPS Act. He submits that in all there are 24 prosecution witnesses, however, none has been examined till date. He submits that in the overall facts and circumstances of the case, petitioner does not deserve to be granted bail.

5. Heard. On hearing counsel for the parties and perusing the record, it is deciphered that the petitioner was arrested in this case on the basis of secret information on 05.03.2023. Though the petitioner is involved in other cases, however, the custody certificate would reflect that in some of the cases he is acquitted and in most of the cases, he is on bail. It is also apparent from custody certificate that the petitioner is not involved in other cases under the NDPS Act. As per the submission made by learned State counsel, out of 24 total cited witnesses, none has been examined.

6. In view of the facts and circumstances of the present case, this Court cannot ignore the fact that the speedy trial is the fundamental right of every accused. 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.

20. xxxxx

21.it 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.

22. xxxxx

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.*



the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. 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 Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

13.11.2024
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(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No