

CRM-M-41468 of 2023

2024:PHHC:061447

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41468 of 2023
Date of decision: 03.05.2024

Sawinder Singh

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Anil Mehta, Advocate,
and Mr. Rohit Kaushik, Advocate,
for the petitioner.

Mr. Ravi Dutt Sharma, DAG, Haryana.

NAMIT KUMAR, J. (ORAL)

1. Instant third petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.342 dated 16.09.2022 under Sections 21(c), 27A, 29-61-85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Sections 3, 14 of the Foreigners Act, registered at Police Station Sector 5, Gurugram.
2. Brief facts of the case are that on 16.09.2022 on the basis of secret information, initially two accused persons namely Asikul Sekh and Nisar Ahmed were apprehended from the second floor of a building near the Sheetla Mata Mandir in village Gurugram. After serving the notice under Section 50 of the NDPS Act, the search was conducted in the presence of Sh. Kuldeep Singh, SDO, PWD (Irrigation) and from the Almirah of the

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room, three polythene bags containing chemical, caffeine and smack/heroin were recovered. Upon weighing the smack, it was found 1.308 kilograms, the polythene containing the white chemical was found to be 0.993 kilograms and the 3rd polythene containing caffeine was 1.390 kilograms. The accused persons revealed that the raw material is brought from a person named as Bablu in Delhi and after making the preparation, they deliver the prepared material to Bablu who usually pays them Rs.30,000/- for preparation. The accused persons were sent to police remand for two days. The accomplice Abdul Majid was arrested on 17.09.2022. The accused persons were taken on further police remand during which they got identified the person to whom they used to give the sale proceeds. The said person namely Sawinder Singh (petitioner) was arrested and he suffered a disclosure statement, thereafter Sections 27A and 29 of NDPS Act were also invoked. Allegedly, accused Nisar Ahmed, Abdul Majid @ Bablu and Asikul Sekh had sold the smack worth Rs.8,00,000/- and given the sale proceeds to the petitioner and he got recovered currency notes amounting to Rs.1,00,000/- and told that remaining Rs.7,00,000/- have been sent to Ahmed Suja and Karizad with a currency note of Rs.2/- bearing no.76A63J803 which was used as a confirming signal to handover the currency notes to unknown person sent by Ahmed Suja and Karizad. The photograph of the currency note of Rs.2/- was sent via Whatsapp.

3. Learned counsel for the petitioner submitted that the petitioner is innocent and has been falsely implicated in the present case. He has been indicted in the present case on the basis of disclosure statement of co-accused Nisar Ahmed. He further submitted that petitioner has no connection with the co-accused arrested at the spot. He further submitted

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that apart from disclosure statement, there is no other linking evidence against the petitioner. He further submitted that no drug has been recovered from the possession of the petitioner. He further submitted that co-accused, namely Abdul Majid has been granted the concession of regular bail by a Co-ordinate Bench of this Court vide order dated 14.12.2023 passed in CRM-M-16406 of 2023 – Abdul Majid v. State of Haryana. Learned counsel further submitted that investigation in the present case is complete; challan has been presented; charges have been framed and out of total 23 prosecution witnesses, 13 have been examined. He submitted that petitioner is in custody since 20.09.2022. He is not involved in any other case. Trial may take a considerable time to conclude. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars.

4. Per contra, learned State counsel while placing on record the custody certificate opposed the prayer for grant of regular bail to the petitioner on the ground that it is highly improbable that the petitioner if granted bail shall attend the trial. However, he could not point out any linking evidence in the present case except the disclosure statement of the co-accused. It has also not been disputed that co-accused Abdul Majid has been granted the concession of regular bail by a Co-ordinate Bench of this Court; investigation in the present case is complete; challan has been presented; charges have been framed and out of total 23 prosecution witnesses, 13 have been examined; petitioner is in custody for about 01 year and 08 months. He is not involved in any other case.

5. I have heard learned counsel for the parties and perused the record.

6. Keeping in view the custody of the petitioner, which is about 01

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year and 08 months; co-accused Abdul Majid has already been granted the concession of regular bail; there is no linking evidence except the disclosure statement of the co-accused; investigation is complete; challan has been presented; charges have been framed and out of 23 prosecution witnesses, 13 prosecution witnesses have been examined; petitioner is not involved in any other case and trial is likely to take a considerable time, however, without commenting upon the merits of the case, the petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate.

7. However, in order to allay the fears expressed by learned State counsel, in addition to the conditions that may be imposed by the trial Court/Duty Magistrate concerned, the petitioner is being put to following terms: -

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial Court.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by the trial Court, the prosecution shall be at liberty to move cancellation of bail of the petitioner.

9. The petition stands disposed of accordingly.

10. Needless to say that anything observed hereinabove shall not be

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construed to be an expression of opinion on the merits of the case.

03.05.2024
R.S.

(NAMIT KUMAR)
JUDGE

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