



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

213

CRM-M-41650-2024 (O&M)
Decided on : 20.12.2024

KAMNAIN

. . . Petitioner(s)

Versus

STATE OF HARYANA

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Sandeep Singh, Advocate for the
petitioner(s).

Mr. Gaurav Bansal, DAG, Haryana.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of BNSS has been invoked for grant of regular bail to the petitioner in case FIR No.153 dated 07.07.2024 under Section 21(c) of NDPS Act, 1985 (Section 29 of NDPS Act added later on), registered at Police Station Farakpur, District Yamunanagar.

2. The brief facts of the present case are that on 07.07.2024, co-accused persons were apprehended with 270 gms of heorin on the basis of secret information. Subsequently, co-accused Wahid was arrested following the disclosure statement of the main accused. During interrogation, co-accused Wahid made a disclosure statement implicating the present petitioner.

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. He also submits that the petitioner has been nominated on the basis of disclosure statement of co-accused and no recovery has been effected from the petitioner. He further submits that the petitioner has undergone an actual custody of 05 months and 02 days and is not involved in any other criminal case.



CRM-M-41650-2024 (O&M)

- 2 -

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone an actual custody of 05 months and 02 days and is not involved in any other criminal case. He on instructions from the concerned investigating officer submits that challan was presented on 04.12.2024 and charges are yet to be framed. He also submits that out of a total of 26 prosecution witnesses, none has been examined till date. He however, submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

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

6. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, recovery is of non-commercial quantity and challan was presented on 04.12.2024 and charges are yet to be framed and out of a total of 26 prosecution witnesses, none has been examined till date. The petitioner has undergone an actual custody of 05 months and 02 days and there is no other criminal case registered against him. The conclusion of trial will take a considerable period and further detention of the petitioner will not serve any useful purpose and will be violation of Article 21 of the Constitution of India including the right to speedy trial, and is against the principle "Bail is a rule, jail is an exception" as elucidated in the judgment of Apex Court in

"Dataram Singh vs. State of Uttar Pradesh and another", (2018) 3 SCC

22. Therefore, this Court is of the considered view that further incarceration



of the petitioner will not serve any purpose.

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 her 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.

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

(KIRTI SINGH)
JUDGE

20.12.2024
Kavita

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No