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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-43742-2023
Date of decision: 19.03.2024

Bakshi Ram ...Petitioner

Versus

Union of India Through Narcotics
Control Bureau, Chandigarh ...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Parminder Walia, Advocate for the petitioner.

Ms .Gurmeet Kaur, Sr. Panel Counsel-UOI/NCB.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail in case having crime No.72 dated 17.11.2021 under Sections 8, 20, 25, 27-A, 29 and 60 of NDPS Act, registered at Police Station Narcotic Control Bureau, Chandigarh Zonal Unit, Chandigarh (NCB).
2. The allegations in nutshell are that officials of Narcotics Control Bureau (NCB), Chandigarh received a secret information against Noor Dass on 17.11.2021. Consequently, Noor Dass and Rishi Pal were apprehended and 3.540 kg *charas* was recovered at the spot. After their arrest, the said accused suffered disclosure statement wherein the name of the petitioner surfaced and accordingly, he was nominated as accused and arrested on 14.03.2022 but no contraband or drug money was recovered from possession of the petitioner.

3. The counsel for the petitioner submits that petitioner is falsely implicated in the present case on the basis of alleged disclosure statement made by co-accused and the relevancy and admissibility of said disclosure statement will be tested during trial. It is further submitted that the petitioner is in custody since 14.03.2022 and is already given benefit of regular bail in another criminal case of similar nature by the co-ordinate Bench of this Court vide order dated 01.05.2023 having CRM-M-3165-2023. The counsel for the petitioner further submits that the trial is not proceeding ahead as till date, prosecution is unable to examine any witness. So prayer is made the petitioner be enlarged on regular bail.

4. The present petition is resisted by the counsel for NCB who submits that commercial quantity of contraband was recovered from co-accused Noor Dass and Rishi Pal, who suffered disclosure statement regarding involvement of the petitioner in drug trafficking. It is further submitted that rigors of Section 37 of NDPS Act are applicable to the instant case. It is further submitted that no ground is made out to release the petitioner on regular bail. However, the counsel for NCB has not disputed the fact that till date, prosecution is unable to examine any witness and that petitioner is in custody for the last about 2 years and is involved in one another case of similar nature wherein he is given benefit of regular bail vide order dated 01.05.2023.

5. I have considered the submissions made by counsel for the parties.

6. Initially, police received a secret information against Noor Dass and Rishi Pal and arrested them along with 3.540 kg of *charas* which comes

under commercial quantity of contraband. The petitioner was nominated as accused on the basis of disclosure statement made by co-accused Noor Dass and Rishi Pal and consequently, arrested on 14.03.2022. However, no contraband or drug money was recovered at the instance of the petitioner, during investigation of the case. The evidentiary value and admissibility of the alleged disclosure statement made by co-accused against the petitioner is subject matter of trial. Admittedly, it will take time for the trial to conclude as till date, prosecution is unable to examine any witness out of total 23 witnesses. There is nothing on the record to establish that the petitioner is responsible for delay in trial. It being so, further incarceration of the petitioner would be violative of his right enshrined under Article 21 of the Constitution of India and the rigors of Section 37 NDPS Act can be diluted bearing in mind the right to a speedy trial.

7. In light of the above discussion, the present petition is hereby allowed and petitioner is directed to be released on regular bail subject to his furnishing of bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

8. However, anything observed herein above shall not be treated as an expression of opinion on merits of the case. Further, petitioner is not to indulge in any such illegal activity in future, and respondent will be at liberty to seek cancellation of bail of the petitioner in the present case, if in future, petitioner commits another offence under NDPS Act.

19.03.2024

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No