



CRM-M-41478-2024

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

CRM-M-41478-2024

Date of Decision: 02.09.2024

Parveen @ Pinna

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Shivansh Malik, Advocate for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

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.238 dated 27.05.2022, under Sections 20 and 60 of NDPS Act 1985 registered at Police Station Sampla, Rohtak, District Rohtak.

2. Succinctly stated facts of the case are that on 27.05.2022, Police party received a secret information to the effect that Rohit son of Sunil and Parveen son of Rajendra are involved in selling narcotic substances and that day they were coming with a large quantity of narcotic in his Toyota Urban Cruiser car, which is without number. It was informed that in case barricading, they could be arrested with the narcotic. Finding the secret information reliable, raiding party was conducted and the barricading was laid. After some time, the Police party spotted a white Toyota Urban Cruiser car without number plate and it was signalled to be stopped. Two persons were sitting inside the car, who on seeing the Police party tried to flee, however, they were apprehended. On asking, the driver of the car disclosed his name as Rohit, whereas, the person sitting beside him told his name as



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Parveen alias Pinna (petitioner). They were given separate notices under Section 50 of the NDPS Act and then in the presence of SDO, search of the car was conducted and 90 sacks each weighing 15 Kgs of Ganja were recovered from the car. Thus, a total 258 Kgs of Ganja including weight of sacks was recovered from the car. Both the accused failed to produce any licence regarding the possession of the same and thus, both were arrested on the spot in the FIR registered. Samples were drawn and sent to the FSL and thereafter the investigation commenced. The petitioner approached the Court of learned Additional Sessions Judge, Rohtak praying for grant of regular bail, however, on hearing both the sides, learned Court declined the same vide order dated 30.07.2024. The petitioner earlier approached this Court by way of filing CRM-M-14788-2023, however, the same was allowed to be dismissed as not pressed vide order dated 28.03.2023. 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 as per the case of the prosecution, recovery was effected on the basis of the secret information, however, there is a violation of mandatory provisions of Section 42 of NDPS Act. He submits that as per case of the prosecution, co-accused Rohit was driving the car, whereas, the petitioner was allegedly sitting beside. It was submitted that co-accused Rohit has been granted bail by this Court vide order dated 10.07.2024. He submits that recovery was effected from a public place, however, no independent witness was joined by the Police. It has been vehemently submitted that the case of the petitioner is



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at par with that of co-accused Rohit and thus, he deserves to be granted bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the petitioner was arrested on spot alongwith the co-accused and recovery of contraband was effected from the car in which both the petitioner and co-accused were travelling. He submits that a heavy quantity of Ganja 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, who has been enlarged on bail by this Court vide order dated 10.07.2024. He has placed on record the custody certificate and submitted that the petitioner is involved in two other cases and both are under the Arms Act. On instructions from SI Joginder, he further submits that challan is presented and charges are framed. He further submits that out of 30 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 27.05.2022. The secret information received was qua the petitioner as well as the co-accused, who has already been granted bail by this Court vide order dated 10.07.2024. the Investigation is complete and charges are framed. However, learned counsel for the petitioner has submitted that one prosecution witness has been examined out of 30 prosecution witnesses. The custody certificate would shows that the petitioner has completed an actual incarceration of 02 years 02 months and 17 days as on 01.09.2024. Though the petitioner is being prosecuted in two other cases under the Arms Act,



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however, in one case, he has been acquitted and other is still pending. 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 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.

10. It is being clarified that in case the petitioner does not furnish bail/surety bonds in the present case within a period of one week from today, his custody will not be counted in the present case after one week.

02.09.2024		(RAJESH BHARDWAJ)
sharmila		JUDGE
	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No