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

CRM-M-43975-2023 (O&M)

Date of decision: 10.01.2024

Ashish @ Ashu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. S.K. Jindal, Advocate for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

KARAMJIT SINGH, J. (ORAL)

1. The present petition filed by the petitioner seeking grant of regular bail in criminal case having FIR No.61 dated 06.03.2023 registered under Section 21 of NDPS Act, at Police Station Ram Nagar, Karnal.

2. The prosecution story in nutshell is that co-accused Sada Nand came to District Jail, Karnal on 06.03.2023 to meet petitioner who was lodged in the said jail in some criminal case and after meeting, Sada Nand handed over certain clothes to the petitioner and when the said clothes were checked by the jail authorities 5 grams 200 miligrams of heroin was recovered and consequently the FIR in the present case was registered against both the accused. The petitioner was arrested in this case on 02.06.2023.

3. The counsel for the petitioner submits that the petitioner has been falsely implicated in the present case at the instance of jail Authorities.

It is further contended that the alleged recovery comes under non

commercial quantity and thus, rigors of Section 37 of NDPS Act are not applicable in the present case and that it will take considerable time for trial to conclude and co-accused Sada Nand is enlarged on bail by the Court of Additional Sessions Judge, Karnal vide order dated 07.04.2023 Annexure P-3. It is further contended that the petitioner is having no criminal history under NDPS Act. So prayer is made that the petitioner be released on regular bail.

4. The present petition is resisted by the State counsel who submits that the petitioner is a habitual offender and is involved in number of other criminal cases whose detail is given in his custody certificate. However, the State counsel on instructions from ASI Sandeep Kumar has not disputed the fact that in the present case recovery of non commercial quantity of contraband was effected and that petitioner is in custody since 02.06.2023 and on completion of investigation police has presented the challan and trial is going on.

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

6. As per police version, 5 gram 200 miligram of heroin was recovered which comes under intermediatery quantity and thus, embargo provided under Section 37 of NDPS Act is not applicable to the instant case. The petitioner is in custody for the last more than 7 months. Admittedly, the petitioner is involved in number of other criminal cases under IPC but is having no criminal history under NDPS Act. Co-accused Sada Nand is already released on bail vide Annexure P-3. It will take considerable time for trial to conclude. In the given circumstances, no purpose is going to be

served by detaining the petitioner in custody for any longer period.

7. In light of the above, without commenting on the merits of the case, the present petition is allowed and petitioner is directed to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/CJM concerned.

8. Pending application, if any, stands disposed of.

10.01.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No