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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-44618-2024 (O&M)
Date of decision: 12.11.2024

Harish Kumar @ Rishu	...	Petitioner
Versus		
State of Haryana	...	Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ankush Bharti, Advocate
for the petitioner.

Ms. Nidhi Garg, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 483 of BNSS, 2023, is for grant of regular bail to the petitioner in FIR No. 124 dated 01.06.2023, registered under Sections 15(c) and 29 of the NDPS Act, 1985 at Police Station Ding, District Sirsa.
2. Brief facts of the case relevant for the disposal of the present petition are that on 31.05.2023, co-accused Gagan @ Sonu and Vinod Kumar @ Bablu, while coming in a car bearing registration number HR-24-GV-7647, were apprehended by a police party and recovery of 60 kgs. of poppy husk was effected from them. They were formally arrested on the spot. They made disclosure to the effect that the recovered contraband was supplied to them by one Ramesh Kumar and he only could tell the name of the person, from whom the contraband was procured. On the basis of this disclosure statement, Ramesh Kumar, who was already in custody in connection with FIR No. 190 dated 25.06.2023, registered under Section 18-B of the NDPS Act at Police Station

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Uklana, was joined into investigation of the present case by way of production warrants and was taken into custody in this case as well. During interrogation, he suffered disclosure statement admitting his involvement in the commission of subject crime along with the co-accused and disclosed that the recovered contraband was got delivered to aforesaid co-accused through Rohit @ Lala and Sandeep at the rate of Rs. 3,000/- per kg. He also disclosed that the petitioner is also indulged with them in the business of selling poppy husk. On the basis of this disclosure, the petitioner was nominated and arrested on 21.05.2024. During interrogation, the petitioner demarcated the place from where the aforesaid car was purchased by him. Challan qua co-accused Gagan @ Sonu, Vinod Kumar @ Bablu and Ramesh Kumar has already been filed and investigation qua the petitioner and co-accused Rohit @ Lala is still pending. The petitioner had moved an application for grant of regular bail before the Court of learned Additional Sessions Judge, Sirsa but the same had been dismissed, vide order dated 16.08.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The petitioner was not found at the spot. No recovery has been effected from him. He is not involved in any other case. He is not the registered owner of the aforesaid car. He has been involved in this case on the basis of the disclosure statement suffered by the co-accused, which is not admissible in evidence. Investigation qua the petitioner is still pending and after presentation of challan in due course, the trial is likely to take time. The petitioner is in custody since 21.05.2024. No useful purpose would be served by keeping him in custody anymore. It is, therefore, urged that the petition deserves to be allowed.

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4. Status report has been filed by the respondent-State. It is submitted therein and learned State counsel has argued that on 31.05.2024, aforesaid co-accused were apprehended by the police party and 60 kgs. of poppy husk was recovered from the car, which they were driving in. Although the petitioner has been nominated in this case on the basis of the disclosure statement of the co-accused but during the course of investigation, his complicity and active involvement in the subject crime has been established. The petitioner is a part of gang, which is indulged in the sale/purchase of poppy husk. Since the quantity of the recovered contraband falls under the commercial quantity, the rigors of Section 37 of the NDPS Act would be attracted in this case. It is also argued that if the petitioner is released on bail, he may influence the witnesses or abscond or indulge in the similar offences as the investigation qua petitioner and co-accused Rohit @ Lala is still pending. It is, thus, argued that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also perused the material placed on record.

6. As per the allegations, aforesaid two co-accused, i.e. Gagan @ Sonu and Vinod Kumar @ Bablu, were apprehended by the police party on 31.05.2023 and recovery of 60 kgs. of poppy husk was effected from their car. They had named co-accused Ramesh Kumar as a person who got them supplied the recovered contraband and co-accused Ramesh Kumar had named the petitioner as a person, who was involved in the business of sale/purchase of the contraband along with them. It has been found that the aforesaid car, which was used by the aforesaid co-accused, was in fact purchased by the present petitioner, which shows that the petitioner was actively involved in the

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commission of subject crime. Investigation qua him is still pending. Hence, the apprehension expressed by learned State counsel that if released on bail, he may influence the witnesses or abscond or indulge in the similar offences cannot be stated to be unfounded. There is nothing on record to show that there would be any undue delay in conclusion of trial. Keeping in view the discussion as made above, the quantity of recovered contraband in this case, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the petitioner does not deserve to be granted benefit of regular bail, at this stage. Hence, the petition is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

12.11.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No