

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208 CRM-M-52609-2023
Date of Decision.:07.02.2024

JoshPetitioner
Vs.
State of PunjabRespondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Ms. Pratula Sethi, Advocate
for the petitioner.

Mr. Anmol Singh Sandhu, AAG, Punjab.

DEEPAK GUPTA, J. (ORAL)

Status report by way of an affidavit of Shri Vaibhav Chaudhary
IPS, Assistant Superintendent of Police, Sub Division, Derabassi, District
S.A.S. Nagar Mohali has been filed on behalf of respondent- State.

2. The petitioner is seeking regular bail by way of petition filed
under Section 439 Cr.P.C in case FIR No.0104 dated 30.06.2022 registered
under Section 21/61 of NDPS Act and Sections 186, 353 of the IPC
registered at Police Station Lalru, District SAS Nagar.

3. As per allegations, 101 gram of cocaine was recovered from the
possession of the petitioner on the basis of secret information on 30.06.2022,
when petitioner was travelling in a bus.

4. Learned counsel for the petitioner contends that petitioner has
been falsely implicated; that the recovered quantity of contraband is
marginally above the commercial category; that petitioner is in custody for

the last more than 01 year 07 months; and that trial may take time to conclude and so, he be allowed bail.

5. Learned State counsel has placed on record custody certificate which reveals that petitioner is in custody for the last 01 year 07 months and 08 days with no other criminal case pending against him. Learned State counsel also informs that after filing of the challan on 23.12.2022 and framing of charges 03 witnesses have already been examined out of 20 witnesses cited by the prosecution.

6. Bail petition is opposed on the ground that recovered quantity falls in the commercial category. Apprehension is also shown that petitioner being a Nigerian citizen, he may flee away, if released on bail.

7. Having regard to custody period of the petitioner and the fact that only 03 witnesses out of 20 cited by the prosecution have been examined, it is apparent that trial is likely to take long time to conclude. Simply because, petitioner is a Nigerian citizen cannot be a reason to decline bail to him, though certain stringent conditions can be imposed so that he does not flee from trial. As far as commercial category of contraband is concerned, the same is marginally high than commercial.

8. Having regard to all the above facts and circumstances, particularly the custody period of the petitioner, rigors of Section 37 of the NDPS Act is required to be balanced with Article 21 of the Constitution of India guaranteeing Fundamental Right to life and liberty of which speedy trial is a facet.

9. As such, this petition is allowed and petitioner is admitted to

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bail on his furnishing bail bonds/surety bonds to the satisfaction of the Learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

10. Apart from this, Trial Court will be at liberty to impose such conditions as may be necessary so as to procure the presence of the petitioner during trial including surrender of the passport by the petitioner.

(DEEPAK GUPTA)
JUDGE

February 07, 2024
Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No