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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-54771 of 2023  
Date of Decision: February 12, 2024

Jagdev Singh  
.....Petitioner  
versus  
State of Punjab  
.....Respondent

CORAM: HON'BLE MR.JUSTICE HARPREET SINGH BRAR

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Present:- Ms. Reet Kaur Arora, Advocate and  
Mr. J.K. Singla, Advocate  
for the petitioner  
  
Mr. Sandeep Kumar, DAG Punjab  
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**Harpreet Singh Brar, J. (Oral)**

1. This is the first petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 166 dated 26.08.2023 registered under Section 22 of NDPS Act, 1985 at Police Station Bhikhi, District Mansa.
2. As per the case of the prosecution, the present FIR was registered against the petitioner and his co-accused Jagdeep Singh on the allegations that on 26.08.2023, 33 strips of Tramatrast SR 100 tablets each of 10 tablets were recovered from the conscious possession of the petitioner and his co-accused.
3. Learned counsel for the petitioner *inter alia* contends that the similarly situated co-accused Jagdeep Singh was granted concession of interim bail by the Court of learned Judge, Special Court, Mansa vide order dated 03.10.2023 (Annexure P-1). The alleged recovery of 330 tablets of Tramatrast comes out to be 124.74 gms and it does not fall within the ambit of commercial quantity.

4. Per contra, learned State counsel opposes the grant of regular bail to the petitioner on the ground that the petitioner is habitual offender and he is involved in two more cases under the NDPS Act. However, learned State counsel could not controvert the fact that the total weight of 330 tablets comes out to be 124.74 gms, which falls within the ambit of non-commercial quantity.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 26.08.2023. The investigating agency has concluded the investigation and filed the final report under Section 173 Cr.P.C. on 25.10.2023. The trial of the case has not made much progress till date as none out of total of 13 PWs cited by the prosecution has been examined. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future, would be violative of Article 21 of the Constitution of India. Culpability, if any, would be determined at the time of trial.

6. Keeping in view the law laid down by Hon'ble Supreme Court of India in 'Prabhakar Tewari Vs. State of U.P. and Another', 2020 (1) R.C.R. (Criminal) 831 and Maulana Mohd. Amir Rashadi vs. State of U.P. and others, 2012(2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

7. In view of the above, the present petition is allowed and petitioner-Jagdev Singh is ordered to be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed

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without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)  
JUDGE

February 12, 2024

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No