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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-57825-2022

Date of decision: 20.02.2024

SIMRAN KAUR @ INDU

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. A.S. Brar, Advocate for the petitioner.

Mr. Inderjeet Singh Ladher, DAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The second petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail in case having FIR No.133 dated 28.11.2021, under Sections 21/25/29 of the NDPS Act, Police Station Mehna, District Moga.

2. The allegations in brief are that police received secret information against petitioner and Jaspreet Singh on 28.11.2021 and petitioner was apprehended and 260 grams of heroin was recovered from her possession. The petitioner was arrested at the spot.

3. The counsel for the petitioner submits that the petitioner was falsely implicated in the present case as the local police was inimical towards her as the petitioner was cited as a witness in case titled as CBI Vs. Davinder Singh Garcha and others, known as Moga Sex Scandal and she

was summoned as a witness on 26.07.2017 and the police was pressurizing her not to appear as a witness in the said case on behalf of prosecution and thus, number of false criminal cases were registered against the petitioner as are detailed in para no.12 of the present petition. The counsel for the petitioner further submits that even otherwise out of said cases, the petitioner was acquitted in three cases while in remaining cases, she is enlarged on bail.

4. The counsel for the petitioner further submits that in the present case, the petitioner is in custody for the last more than 2 years and 2 months and trial is not progressing ahead and is still at its initial stage. It is further submitted that in the given circumstances, no purpose is going to be served by detaining the petitioner in custody for any longer period.

5. The present petition is resisted by the State counsel who submits that the present case is relating to recovery of commercial quantity of heroin and that rigors of Section 37 NDPS Act are applicable. It is further contended that the petitioner is having criminal history as has been admitted by the counsel for the petitioner. It is further contended that at this stage when trial is going on, no ground is made out to release the petitioner on regular bail. However, the State counsel has not disputed the fact that the trial is at its initial stage.

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

7. As per prosecution version, the petitioner was apprehended by the police on 28.11.2021 along with 260 grams of heroin which comes under commercial quantity of contraband. The explanation given by the counsel

for the petitioner with regard to registration of the another criminal cases against the petitioner apparently seems to be plausible but will be considered by the trial Court at the relevant stage of trial. As per the custody certificate furnished by the State counsel, the petitioner is in custody for the period of last 2 years and 2 months. Admittedly, the trial is at its initial stage and it will take considerable time for trial to culminate.

8. No doubt the present case is relating to recovery of commercial quantity of heroin from petitioner but at the same time the petitioner has already faced incarceration for period of 02 years and 02 months and the trial is not progressing ahead and is at its initial stage and it will take considerable time for the trial to terminate. The petitioner is not responsible for the aforesaid delay in disposal of the trial. It is settled position of law that whatever be the nature of the offence, a prolonged trial against an accused under custody, would be violative of Article 21 of the Constitution and such a long incarceration also weaken the rigors of Section 37 of the Act. In the given circumstances, no fruitful purpose is going to be served by detaining the petitioner in custody for any longer period.

9. In light of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing of bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

20.02.2024

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No