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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of Decision: 29.10.2024

Arashdeep Singh @ Arashi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:- Mr. Arihant Goyal, Advocate
for the petitioner.

Mr. R.S. Thind, DAG Punjab

KIRTI SINGH, J.(Oral)

The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.0025 dated 10.06.2021, under Sections 21, 25, 29 of NDPS Act, 1985 registered at Police Station Mehal Kalan, District Barnala.

2. The facts of the present case are that on 10.06.2021, at about 4:00 p.m., SI Gurbachan Singh and other police officials received secret information regarding the involvement of Arashdeep Singh @ Arshi (petitioner) and Amritpal Singh in drug smuggling. A ruqa was dispatched, leading to the registration of FIR. Following the registration, the investigation was assigned to SI Satnam Singh. While conducting further investigation, they spotted two individuals on a motorcycle and upon noticing the police, the pillion rider (Amritpal Singh) jumped off, attempting to fled from the spot but was apprehended, while the motorcycle



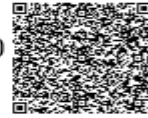
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rider (Arashdeep Singh) turned back and escaped. The police apprehended Amritpal Singh, who revealed his accomplice's identity as Arashdeep Singh. A subsequent search of Amritpal's small black bag yielded 350 grams of white powder, which was later confirmed to be heroin.

During interrogation, Amritpal Singh named Gurdeep Singh, alias Manna, as another accomplice involved in the drug trade. On 14.06.2021, Vishesh Kumar was also implicated. Further investigation led to the arrest of Iqbal Singh, alias Babbu, on 15.06.2021, who was found in possession of 30 grams of intoxicant powder. On 23.06.2021, Arashdeep Singh was apprehended, and his interrogation resulted in the nomination of Vijay Singh @ Ghuggi, as an additional accused. Vijay Singh was arrested on 24.06.2021, with a recovery of 380 grams of heroin.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been nominated on the basis of disclosure statement of co-accused Amritpal Singh Johal, who was allegedly apprehended with 350 grams of intoxicant powder by the police on 10.06.2021. Learned counsel further submits that even though the challan was presented way back on 03.12.2021 and charges were framed on 20.04.2022, the trial Court had failed to make much progress as only 05 prosecution witnesses out of 19 prosecution witnesses have been examined till date. Hence, there was no likelihood of the trial concluding in the near future. He further submits that the petitioner has undergone actual custody of 03 years and 04 months and five more case are registered against him. He further submits that similarly situated co-accused have been granted the concession of regular bail by this Court vide order dated 07.11.2023 passed in CRM-M-45746-2021, order dated 14.09.2021 passed in CRM-M-28877-2021, order dated 11.11.2023 passed



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in CRM-M-18476-2022, order dated 07.08.2023 passed in CRM-M-42068-2021, order dated 29.01.2024 passed in CRM-M-43924-2023 and order dated 29.11.2022 passed in CRM-M-25532-2022.

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. As per the custody certificate, the petitioner has undergone actual custody of 03 years and 04 months and there are five more case registered against him. Charges were framed on 20.04.2022 and out of 19 prosecution witnesses, 05 prosecution witnesses have been examined. He, however, submits that in view of strict rigors of Section 37 of the NDPS Act and serious allegations against the petitioner, he is not entitled to the concession of regular bail.

5. Heard the rival submissions made by learned counsel for the parties.

6. The charges were framed on 20.04.2022 and out of total 19 prosecution witness, only 05 prosecution witnesses have been examined till date. The petitioner has undergone actual custody of 03 years and 04 months. Further detention of the petitioner will not serve any useful purpose and will be violation of Article 21 of the Constitution of India including the right to speedy trial, and is against the principle "Bail is a rule, jail is an exception" as elucidated in the judgment of Apex Court in ***"Dataram Singh vs. State of Uttar Pradesh and another"*, (2018) 3 SCC 22.**

7. Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. The Apex Court in ***"Abdul Rehman Antulay and others v. R.S. Nayak and another"*, 1992(2) RCR (Criminal) 634** observed that Right to Speedy Trial

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flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial.

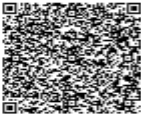
8. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, the charges have been framed and only five prosecution witness have been examined till date. Therefore, this Court is of the view that further incarceration of the petitioner would not serve any purpose.

9. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (iii) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (iv) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which she is suspected.
- (v) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

10. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

11. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed



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independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

29.10.2024

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Whether speaking/reasoned
Whether reportable

(KIRTI SINGH)
JUDGE

Yes/No
Yes/No