

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-57356-2023 (O&M)

Date of Decision: 20.2.2024

Prabhjit Singh @ Babba

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Ajay Pal Singh Rehan, Advocate
for the petitioner.

Mr. Inderjeet Singh Ladher, DAG, Punjab

KARAMJIT SINGH, J.

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.3 dated 15.2.2018 registered for the offences punishable under Sections 21 of NDPS Act at Police Station Sadar Pathankot, District Pathankot.

2. The allegations in nutshell are that on 15.2.2018, 190 grams of Heroin was recovered from the petitioner and he was arrested at the spot. Later on, the petitioner was granted regular bail by the Court concerned. Subsequently, the petitioner jumped bail and was declared proclaimed offender vide order dated 27.2.2023 and later on, re-arrested on 15.4.2023 and is presently lodged in judicial custody.

3. Counsel for the petitioner submits that the present case is relating to recovery of non-commercial quantity of contraband and rigors of Section 37 of NDPS Act are not applicable and further, at the initial stage, the petitioner was granted regular bail by the Court concerned but

thereafter, the petitioner was arrested in one another case and due to the said reason, the petitioner failed to appear before the Court concerned in the present case and subsequently, the petitioner was declared as proclaimed offender; that thereafter the petitioner was re-arrested and is presently lodged in judicial custody and that it will take time for the trial to conclude. So, prayer is made that the petitioner be released on regular bail.

4. Present petition is resisted by the State counsel who submits that no doubt, the present case is relating to recovery of non-commercial quantity of contraband but earlier when the petitioner was granted regular bail, he jumped bail and absconded and was declared proclaimed offender and was re-arrested on 15.4.2023 and that the trial is going on. State counsel apprised the Court that till date, the prosecution is able to examine 4 witnesses out of total 10 witnesses on behalf of the prosecution. State counsel further submits that the petitioner is having criminal history as is detailed in the custody certificate. At this, counsel appearing on behalf of the petitioner submits that in all the other criminal cases faced by the petitioner, he is already enlarged on bail.

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

6. Strict provisions of Section 37 of NDPS Act will not be applicable to the present case which is relating to recovery of non-commercial quantity of contraband. Admittedly, at the initial stage, the petitioner was granted regular bail but thereafter, he absconded and was declared PO and later on, re-arrested on 15.4.2023. It will take considerable time for the trial to conclude. In the given circumstances, no useful purpose is going to be served by keeping the petitioner in custody for any further

period.

In view 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 heavy surety to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

February 20, 2024
Paritosh Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No