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**THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.62468 of 2024

Date of Decision: 17.12.2024

Pardeep**..... Petitioner**

Versus

State of Haryana**..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Parveen Kaushik, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

RAJESH BHARDWAJ, J. (ORAL)

1. Present petition has been filed praying for the grant of regular bail to the petitioner in case bearing FIR No.42, dated 04.03.2024 (Annexure P-1), under Section 20B(ii)(C) of NDPS Act, registered at Police Station Kosli, District Rewari.

2. Succinctly the facts of the case are that the police party received a secret information on 04.03.2024 that two persons were riding on a motorcycle bearing No.HR-90B-6124 and they were trying to sell narcotics substance. It was informed that in case of naaka, they could be arrested on the spot along with the contraband. On finding the information reliable, the FIR was registered and the naaka was laid and when the motorcycle came it was stopped and two persons, who were on the motorcycle were asked to disclose their names. The rider of the motorcycle disclosed his name as Pradeep Kumar i.e. the petitioner whereas the person riding pillion disclosed his name as Naveen Kumar. They were suspected to be carrying some contraband and thus search of the persons along with the bag on the motorcycle was conducted. On



conducting the search, 1 kg 70 grams of narcotic substance sulfa (charas) was recovered. Both the persons failed to produce any licence regarding the possession of the same and thus, they were arrested on the spot for carrying the narcotics with them. On registration of the FIR, the investigation commenced. Samples taken were sent to the FSL. The petitioner approached the Court of learned Sessions Judge, Rewari praying for the grant of bail. However after hearing both the sides finding no merit in the same, the learned Sessions Judge, Rewari declined the petition filed by the petitioner vide his order dated 16.07.2024. Hence being aggrieved the petitioner is before this Court by way of filing the present petition praying for the grant of regular bail.

3. Learned counsel for the petitioner, at the outset, prays for the grant of bail on the basis of parity with that of the co-accused. He has drawn the attention of this Court to the order passed by this Court in **CRM-M-52389-2024** dated 16.12.2024 whereby co-accused of the petitioner, namely, Naveen Kumar has been granted the concession of bail. He has submitted that case of the petitioner is at par with the co-accused, who has been granted bail by this Court. He submits that on the basis of the parity, the petitioner deserves to be granted bail as case of the petitioner is similar to that of the co-accused, who has already been granted bail.

4. Learned counsel for the State although has opposed the prayer of the petitioner yet endorsed the fact that the case of petitioner is at par with the co-accused, namely, Kuldeep Kumar @ Bheema, who has already been granted bail by this Court.

5. Heard.

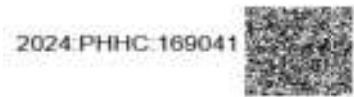
6. After hearing learned counsel for the parties and perusing the



record, it is apparent that the petitioner was arrested on 09.03.2024. The recovered contraband is 1 Kg 70 grams of charas whereas as per the schedule of NDPS Act, the quantity more than 1 kg falls under the commercial quantity. There is nothing on the record to show that the petitioner is involved in any other case. As submitted before this Court that the independent witness has been examined and he has not supported the case of prosecution.

7. After perusal of the order passed by the Hon'ble Supreme Court in *Mohd Muslim @ Hussain vs. State (NCT of Delhi), 2023 Live Law (SC)260*, this Court is of the opinion that the case of the petitioner is covered by the ratio of law laid down by the Hon'ble Supreme Court. In the abovesaid case Hon'ble Supreme Court expressed its views as under:-

19. *A plain and literal interpretation of the conditions under Section 37 (i.e., that Court should be satisfied that the accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special conditions as enacted under Section 37 can be considered within constitutional parameters is where the court is reasonably satisfied on a prima facie look at the material on record (whenever the bail application is made) that the accused is not guilty. Any other interpretation, would result in complete denial of the bail to a person accused of offences such as those enacted under Section 37 of the NDPS Act.*
21. *.....it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable.*
23. *There is a further danger of the prisoner turning to crime, "as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal"²² (also see Donald Clemmer's 'The Prison Community' published in 1940²³).*



Incarceration has further deleterious effects - where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.'

8. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court.
9. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, the Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for the grant of bail to the petitioner on the basis of parity with the co-accused as stated above. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

17.12.2024
ps-I

(RAJESH BHARDWAJ)
JUDGE

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