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CRM-M-38789-2023

ARSHDEEP SINGH @ ARSH V/S STATE OF PUNJAB

Present : Mr. B.S. Aulakh, Advocate
for the petitioner.

Mr. Mohit Kapoor, Addl. A.G., Punjab.

The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.289 dated 01.09.2020 under Sections 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Lambi, District Sri Muktsar Sahib for allegedly having been found in possession of 1000 tablets of Clovidol-100 SR Tramadol Hydrochloride tablets-100 mg and 500 tablets of Etolam 0.5 Etizolam tablets 0.5 mg.

Learned counsel for the petitioner submits that a false case has been planted upon the petitioner. It has further been submitted that the petitioner has now been in custody since 01.09.2020; after the challan was presented on 24.02.2021 and charges framed on 18.08.2021, only 01 prosecution witness out of the 20 cited, has been examined till date. He submits that hence, in the above facts and circumstances, there is no likelihood that the trial would conclude any time soon. Furthermore, it has been contended that the petitioner could not be made to languish in custody for reasons attributable only to the prosecution and the prosecution alone, moreso since the prosecution witnesses, who in the case in hand, are all official witnesses, had not been appearing during trial to get their evidence recorded.

Status report by way of affidavit of Jaspal Singh, PPS,
Deputy Superintendent of Police, Sub Division Lambi, District Sri

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Muktsar Sahib, has been filed in the Court today which is taken on record subject to all just exceptions. A copy of the same has been supplied to the counsel opposite.

Learned State counsel while opposing the prayer made by learned counsel for the petitioner submits that since the recovery effected from the petitioner falls under the commercial quantity, he is not entitled to the concession of regular bail. However, he has not been able to dispute that the trial has come to a virtual standstill on account of the non-appearance of the prosecution witnesses, who in the instant case, are all official witnesses.

I have heard learned counsel for the parties and perused the relevant material on record.

This has more or less become a regular feature in the State of Punjab that prosecution witnesses, who are mostly official witnesses in cases registered under the NDPS Act, have not been appearing during trial to get their evidence recorded as a result of which the trials are naturally getting delayed. On a number of occasions in the past, this Court has directed the presence of Senior Superintendents of Police of various districts, who repeatedly assured this Court that in future trial would not be delayed due to non-appearance of the prosecution witnesses. However, this Court is pained to observe that these assurances have been in vain and possibly have been given only to appease this Court.

In the circumstances, this Court will no longer be a mute spectator moreso in the light of devastating affect which the menace of drugs is having on the society especially the youth in this part of the

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country.

In the circumstances, this Court is left with no other option but to direct the Secretary, Department of Home Affairs, Punjab; Director General of Police, Punjab and Senior Superintendent of Police, Sri Muktsar Sahib to come present in this Court on the next date of hearing at 10:00 A.M.

Adjourned to 12.10.2023.

11.10.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE