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217 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-48792-2017(O&M)
Date of decision: 23.04.2018

Sandeep Kumar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ashok Giri, Advocate
for the petitioner.

Mr. Atinder Pal Singh Jaurkian, AAG, Punjab.

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ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.) is for grant of regular bail to the petitioner in case FIR No. 314 dated 27.08.2017 under Sections 22, 61, 85 of the NDPS Act, registered at Police Station Phillaur, District Jalandhar Rural.

Learned counsel for the petitioner submits that as per allegation in the FIR, 28 gms of intoxicant powder, 12 injections of Avil (10 ML) and 12 injections of Omgesic (Buprenorphine IP-2 ml) were recovered from the petitioner. Learned counsel for the petitioner further submits that the petitioner is not involved in any other case and he is in judicial lock up since 27.08.2017 and after framing of the charge, no prosecution evidence has been recorded so far.

Learned State counsel has filed the custody certificate in Court today and has not disputed the actual sentence undergone by the petitioner and also not disputed the fact that he is not involved in any other case.

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Learned State counsel, on instructions from HC Kamaljit Singh, has further submitted that after framing of the charge, no prosecution evidence has been examined so far.

Without commenting anything on merits of the case, considering the fact that the petitioner is in judicial lock up since 27.08.2017; it will be a debatable issue whether the injections of AVIL are intoxicant substance or not, the petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail in case the petitioner is found involved in any other subsequent case or found misusing the concession of bail.

(ARVIND SINGH SANGWAN)
JUDGE

23.04.2018
Hemlata

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