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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.33375 of 2020 (O&M)
Decided on: 18.11.2020

Dev Parkash

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Pankaj Bali, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.140 dated 25.07.2020, for offence punishable under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') registered at Police Station Sadar Khanna.

Counsel for the petitioner has argued that as per the allegations in the FIR, 01 Kg of Opium was recovered from the petitioner and the co-accused Suresh Kumar. It is further submitted that the co-accused of the petitioner namely Suresh Kumar, has already been granted the concession of regular bail vide order dated 03.11.2020 passed in CRM-M No.33692 of 2020. The operative part of the said order reads as under:-

“Learned counsel for the petitioner argues that the petitioner has been falsely implicated in the present case and even otherwise, the recovery from the petitioner is 1

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kg of opium from the polythene bag, which is not commercial quantity and the petitioner is already behind the bars from the last three and a half months. Learned counsel for the petitioner further submits that the investigation has already been completed and the challan has been presented and the trial is likely to take some time and petitioner is not involved in any other case, therefore, the petitioner be granted the benefit of regular bail.

Notice of motion.

Mr. Sandeep Singh Deol, DAG, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition accepts notice on behalf of respondent-State.

Learned State counsel concedes that the recovery which has been effected from the petitioner is of non-commercial quantity and no other case is pending against the petitioner.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is not disputed that the recovery of the contraband which has been effected from the petitioner is of non-commercial quantity and the petitioner is not involved in any other case and the investigation has been completed and challan has been presented and completion of trial will take some time, the petitioner has made out a case for the grant of benefit of regular bail as keeping the petitioner behind the bars will serve no purpose, especially, when learned counsel for the petitioner undertakes that the petitioner will maintain good conduct while on bail.

Without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of trial Court/Duty Magistrate concerned.”

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Counsel for the petitioner has further argued that the petitioner is not involved in any other case and the conclusion of the trial will take some time.

Counsel for the State has not disputed the factual position but opposed the prayer for bail. It is further submitted that the petitioner, as per the Custody Certificate, is not involved in any other case and has undergone 03 months of judicial custody.

Without commenting anything on merits of the case, considering the fact that the co-accused of the petitioner namely Suresh Kumar, has already been granted the concession of regular bail; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

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

(ARVIND SINGH SANGWAN)
JUDGE

18.11.2020

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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No