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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2625-2021 (O&M)

Date of Decision: 16.02.2021

Fariyad Khan

.. Petitioner

Vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Krishan Singh Dadwal, Advocate for the petitioner.

Mr. Hittan Nehra, Addl. A.G., Punjab.

...

Manoj Bajaj, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail, pending trial in case FIR No.107 dated 18.08.2019 registered under Section 22 NDPS Act, 1985 at Police Station Mahilpur, District Hoshiarpur. The petitioner is in custody since his arrest on 18.08.2019.

As per the case of the prosecution, on 18.08.2019, 40 injections of Avil and 40 injections of Buprenorphine were recovered from accused/petitioner Fariyad Khan.

Learned counsel for the petitioner contends that after framing of charges on 18.02.2020, the trial is not making any headway, as no prosecution evidence has been examined till date. He has further contended that petitioner's father met with an accident, who is bedridden, therefore, he be released on bail to attend his ailing father. He states that the petitioner would stand the trial and there are no chances of his absconding,

particularly when he is not involved in any other case of similar nature. He prays for bail.

On the other hand, learned State counsel assisted by ASI Balvir Singh, has opposed the prayer on the ground that the recovered contraband would fall within the ambit of commercial quantity, however, he has referred to the reply dated 11.02.2021 by way of affidavit of Tushar Gupta, IPS, Assistant Superintendent of Police, Sub-Division, Garhshankar, District Hoshiarpur and submits that indeed the father of the petitioner suffered injuries in an accident and remained admitted in Tyagi Surgical Hospital and Trauma Centre, Sasni Gate, Agra Road, Aligarh w.e.f. 31.12.2020 to 09.01.2021, who is still under treatment. The certificate in this regard issued by the hospital is attached as Annexure R-1. He has further produced the custody certificate of the petitioner by way of affidavit of Tejpal Singh, PPS, Deputy Superintendent Central Jail, Hoshiarpur, which indicates that he is not involved in any other case of similar nature.

After hearing the learned counsel for the parties, this Court finds that though the charges were framed on 18.02.2020, but the trial is yet to commence, as no prosecution witness has been examined till date. The material prosecution witnesses are police officials and there does not seem any possibility of their being won over. Apart from it, the petitioner is presently confined in judicial custody after his arrest on 18.08.2019, who is admittedly not involved in any other case of similar nature and, therefore, his further custody would not serve any useful purpose.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds

to the satisfaction of the trial Court/Duty Magistrate Hoshiarpur.

The petition is allowed.

16.02.2021

Jasmine Kaur

(MANOJ BAJAJ)

JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No