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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M-6081-2020

Date of Decision: April 19, 2021

Manoj @ Kaliya

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Pratham Sethi, Advocate,
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

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.325 dated 07.06.2018, under Sections 21, 25, 8 N.D.P.S.Act, 1985, registered at Police Station, Bhiwani City, District Bhiwani. The petitioner is in custody since his arrest on 07.06.2018.

As per the prosecution, on 07.06.2018, 43 vials of Wincorex Cough Syrup were recovered from the petitioner, who was travelling in a three-wheeler.

Learned counsel for the petitioner has argued that the charges in this case were framed on 01.10.2018 and till date, only six prosecution witnesses have been examined out of total twenty three witnesses. According to him, the petitioner is not involved in any other case of similar nature, therefore, considering his custodial period, the petitioner be released on regular bail.

On the other hand, learned State counsel assisted by ASI Sushil

Kumar has opposed the prayer on the ground that the recovered contraband would fall within the ambit of commercial quantity. However, it is not disputed that out of total twenty three prosecution witnesses, only six have been examined so far.

At this stage, learned counsel for the petitioner has pointed out that the co-accused of the petitioner, namely, Dharmender, has already been released on regular bail by the trial court vide order dated 22.08.2019.

In response, learned State counsel has submitted that the case of the co-accused is distinguishable as no contraband was recovered from the said accused Dharmender, who was indicted as an accused on the basis of the disclosure statement of the petitioner.

After hearing the learned counsel for the parties and considering the above background, this court is of the opinion that though the trial has commenced, but is at the initial stage with no possibility of its completion in near future as still seventeen prosecution witnesses remain to be examined. Apart from it, the belligerent re-emergence of pandemic COVID-19 in the region has once again forced the states of Punjab, Haryana and U.T.Administration, Chandigarh to impose various restrictions to clampdown the contagion, and it would further delay the conclusion of trial. Admittedly, the petitioner is not involved in any other case of similar nature. Thus, the further detention of the petitioner behind the bars may not be necessary for any useful purpose, who is presently confined in judicial custody after his arrest on 07.06.2018.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail

bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty
Magistrate, Bhiwani.

April 19, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No