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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.17215 of 2021 (O&M)
Decided on: 23.11.2021

Sachender Shukla

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Maninder Arora, 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.51 dated 25.06.2019, for offence punishable under Section 22 of the NDPS Act, registered at Police Station Block Majri, District S.A.S. Nagar, Mohali.

Counsel for the petitioner has argued that as per the allegations in the FIR, registered at the instance of ASI Jaspal Singh, while on patrol duty, a person was seen riding a motorcycle and on seeing the police party, he tried to throw a plastic bag and ran away from the spot, however, he was apprehended with the help of co-police officials. Thereafter, on checking the said plastic bag, it was found that the same is carrying intoxicant tablets. It is further submitted that as per the version in the FIR itself, the complainant himself effected the recovery and thereafter, send the information to the police station and

therefore, it will be a matter of trial whether the provisions of Section 42 of the NDPS Act have been complied with or not. It is also submitted that even thereafter, no notice under Section 50 of the NDPS Act was given and thus, it will again be a matter of trial, whether proper procedure is followed or not.

Counsel for the petitioner has also submitted that the petitioner in custody for the last 01 year, 11 months and 04 days and he is not involved in any other case and on an earlier occasion, he was granted the concession of interim bail and has not misused the same and surrendered back on time. It is lastly, argued that charges were framed way back on 03.02.2020 and despite a lapse of 01 year and 08 months, no PW has been examined.

Counsel for the State has not disputed the factual position but opposed the prayer for bail.

After hearing the counsel for the parties, without commenting anything on merits of the case, considering the fact that on 02.09.2020 in CRM-M No.25509 of 2020, the petitioner was granted the concession of interim bail noticing the fact that no PW has been examined and despite the surrender of the petitioner again till date, no PW has been examined; the petitioner is in custody for the last 01 year, 11 months and 04 days; he is not involved in any other case and conclusion of the trial is likely to take some time, 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

23.11.2021

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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No