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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.21378 of 2021 (O&M)

Date of decision: 28.06.2021

Arun Kumar

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. R.S. Sidhu, 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.21 dated 10.02.2019, for offence punishable under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') registered at Police Station City Patti, District Tarn Taran.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered at the instance of the Investigating Officer, when he along with the police party had a suspicion on a young person who was carrying a polythene bag, he had thrown the bag and tried to ran away from the spot. However, he was apprehended by the police party and on enquiry, he disclosed his name as Arun Kumar. Thereafter, he picked up the polythene bag and on opening the same, 815 white coloured intoxicant loose tablets were recovered. It is further submitted that it will be a moot point to be decided during the course of trial as to whether the proper procedure was followed while conducting the investigation as no second Investigating Officer, after the apprehension on the petitioner, was called at the spot.

Counsel for the petitioner has further submitted that the recovery was of loose tablets and only 10 tablets were sent for FSL

CASE HEARD THROUGH VIDEO CONFERENCING

examination and therefore, it is not possible to presume at this stage that all the tablets contain the same salt.

Lastly, it is argued that the petitioner is the first offender and he is in custody for the last more than 07 months and the case is still at the stage of framing the charge.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail. It is further submitted that challan stands presented on 15.12.2020, however, till date the charges have not been framed as the trial has been delayed due to COVID-19 situation.

Without commenting anything on merits of the case, considering the fact that the petitioner is the first offender; he is in custody for the last 07 months and 11 days; 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/Illaq 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

28.06.2021

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No