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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.22084 of 2021 (O&M)

Date of decision: 09.07.2021

Gurbaj Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

CRM-19479-2021

Prayer in this application is for addition of Section 29 of the NDPS Act in the headnote and prayer clause of the main petition.

Notice of the application to counsel for the non-applicant/respondent.

Mr. Joginder Pal Ratra, DAG, Punjab, who is present in the Court accepts notice on behalf of the non-applicant/respondent and has raised no serious objection to the same.

Accordingly, the application is allowed and Section 29 of the NDPS Act is ordered to be added in the headnote and prayer clause of the main petition in addition to Section 22 of the NDPS Act.

The Registry is directed to make necessary addition in the headnote and prayer clause of the main petition.

Disposed of.

CRM-M-22084-2021

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.49 dated 15.03.2021, for offence punishable under Sections 22 & 29 of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station Sadar Patiala, District Patiala.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered at the instance of ASI Satpal Singh, that when he along with the police party was present at a bus-stand on petrol duty, a young man was seen driving a car bearing registration No.PB10-GL-7865. On suspicion, the car was stopped and on conducting the search, a heavy plastic bag was seen on the left front seat of the car. Upon opening the same, bottles of intoxicant medicines were visible and upon this, he enquired about the identity of the driver and he informed that his name is Sukhjinder Singh @ Gagan Pehalwan and he is carrying the intoxicant medicines in the bottles. Thereafter, he was arrested and the recovery of 24 intoxicant bottles of medicines was effected.

Counsel for the petitioner has referred to the judgment passed by the Hon'ble Supreme Court in ***“Tofan Singh vs State of Tamil Nadu”***, 2013(4) RCR (Criminal) 631, to submit that it will be a debatable issue whether the disclosure statement made by the co-accused will be admissible against the petitioner as no recovery has been effected from the petitioner.

Counsel for the petitioner has further submitted that the petitioner was not present at the spot and his name surfaced in the

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disclosure statement of the co-accused as a person, who has supplied the same to him. It is further submitted that the petitioner is in custody for the last about 03 months and he is not involved in any other case and the investigation is complete and it will take some time in conclusion of the trial.

Reply by way of affidavit of the Deputy Superintendent of Police (Rural), Patiala, is on record and as per the reply, after the recovery was effected, the main accused Sukhjinder Singh @ Gagan Pehalwan, recorded his disclosure statement that he has purchased the said medicines from the petitioner – Gurbaj Singh. It is also stated that there are some call details between the petitioner and the said Sukhjinder Singh @ Gagan Pehalwan (copy of which is attached with the same).

Counsel for the State on the basis of the Custody Certificate and the reply, has not disputed the factual position but opposed the prayer for bail. It is also not disputed that the petitioner is not involved in any other case and the petitioner was nominated on the basis of the disclosure statement of Sukhjinder Singh @ Gagan Pehalwan. It is further submitted that challan stands presented on 06.07.2021 and charges are yet to be framed.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 03 months and 20 days; the investigation is complete; challan stands presented; the name of the petitioner surfaced on the disclosure statement of Sukhjinder Singh @ Gagan Pehalwan and subsequent to his arrest, nothing has been recovered from the petitioner; the petitioner

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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 and in view of the judgment passed by the Hon'ble Supreme Court in ***“Tofan Singh's case (supra)***, 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

09.07.2021

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No