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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.28754 of 2021 (O&M)
Decided on: 22.09.2021

Dev Narayan Sahu

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Lakshay Bector, 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.65 dated 04.04.2021 under Section 20 of the NDPS Act, registered at Police Station Division No.6, District Ludhiana.

Counsel for the petitioner has relied upon the order dated 13.09.2021 passed in CRM-M No.27413 of 2021 vide which the co-accused of the petitioner has been released on regular bail. The operative part of the said order, reads as under:-

“Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of ASI Randhir Singh, while on patrol duty, he noticed that three persons, carrying three black coloured polythene bags, got off the bus coming from Delhi and started walking hurriedly to get an auto. On suspicion, the Investigating

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Officer apprehended them and on verification, they disclosed their names as Dev Narayan Sahu, Aman Kumar Singh @ Aman and Ajit Kumar Singh. Thereafter, he inquired about contents of the polythene bags, which they were carrying. Upon this, all three persons declared that it was ganja. Thereafter, the Investigating Officer smelled it and found that it is ganja. In that process, 13 kgs of ganja was recovered from co-accused Dev Narayan Sahu, 11 kgs of ganja was recovered from petitioner Aman Kumar Singh and 21 kgs of ganja was recovered from another co-accused Ajit Kumar Singh. It is further submitted that it will be a matter of trial whether on receiving such information, procedure as per Sections 42 & 50 of NDPS Act was required to be followed or not. It is next submitted that it will also be a matter of trial whether the complainant, who himself is the Investigating Officer, was competent to conduct investigation. Learned counsel further submits that the petitioner is in custody for more than 05 months and is not involved in any other case.

Learned State counsel has filed the custody certificate dated 11.09.2021 in the Court today and has not disputed the factual position, however, it is submitted that since the petitioner is resident of State of Bihar, if he is granted the concession of regular bail, there is a likelihood of his fleeing from the process of law.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the aforesaid submissions made by them, this petition is allowed and the petitioner is directed to be released on regular bail subject to his furnishing bail bonds and two sureties, out of which one should be local surety, to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.”

For the sake of brevity, the facts are not reproduced again.

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Counsel for the petitioner has also submitted that the recovery effected from the petitioner is 13 Kgs of Ganja and he is not involved in any other case and is in custody for the last 05 months and 13 days.

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

Without commenting anything on merits of the case, considering the fact that the petitioner is not involved in any other case; the co-accused of the petitioner is already released on bail 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/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

22.09.2021

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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No