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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.38095 of 2021 (O&M)
Decided on: 10.12.2021

Shishank @ Sushant Kumar @ Shanky

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Raj Kumar Gupta, Advocate
for the petitioner.

Mr. Mehardeep Singh, Addl. A.G., 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.54 dated 20.04.2020, for offence punishable under Sections 21, 25, 29 of the Narcotic Drugs and Psychotropic Substances Act (in short 'the NDPS Act') registered at Police Station S.T.F. Phase 4, S.A.S. Nagar, Mohali.

Counsel for the petitioner has argued that as per the allegations in the FIR, on receiving the secret information that the accused Sushant Kumar @ Shanky i.e. the petitioner is indulged in selling Heroin and has appointed co-accused Vijay Kumar @ Bholu, Karan Kumar @ Kanu, to sell the Heroin to his customers. It is further stated in the FIR that on receiving the said information, a ruqa was sent to the Police Station and thereafter, the investigation was conducted and the co-accused of the petitioner namely Vijay Kumar and Karan Kumar

were apprehended and 360 gms of Heroin was effected from them. The petitioner was not present at the spot and therefore, he was not arrested. It is further submitted that though the petitioner was named in the secret information, however, nothing was recovered from him as he was not even present at the spot and it has come in the affidavit of the Investigating Officer that at the relevant time when the raid was conducted, the petitioner was in judicial custody in FIR No.351 dated 15.06.2021 under Section 379 IPC, Police Station Indri, District Karnal, Haryana and he was taken on production warrant in the present FIR and nominated as an accused in the case. Counsel for the petitioner has, thus, submitted that the petitioner, though involved in one FIR under Section 379 IPC in Karnal and in one FIR No.37 dated 03.05.2019 under Section 61 of the Excise Act and Section 420 IPC, Police Station Dresi, Ludhiana, is not involved in any other case under the NDPS Act and even in the present case except on his nomination on the basis of the secret information, no recovery was effected from him. Lastly, it is argued that the petitioner is in custody for the last more than 04 months.

Counsel for the State has, however, submitted that during the investigation, it was found that the co-accused Vijay Kumar and Karan Kumar as well as the petitioner were talking to each other on their respective mobile phones and therefore, the evidence has come that they were doing the business together and thus, 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 under the NDPS Act previously; he is nominated in this case while in

judicial custody in some other case; no recovery was effected from the petitioner even after his arrest in the present case; the investigation is complete 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

10.12.2021
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No