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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.31864 of 2020 (O&M)
Decided on: 03.11.2021

Daljinder Singh @ Jinder

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. G.S. Kaura, 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.182 dated 18.07.2019, for offence punishable under Section 22 of the NDPS Act registered at Police Station Kharar, 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 SI Sukhmander Singh, while on a patrol duty, he noticed that a car driven by a Sikh person was coming and on seeing the police party, the driver tried to turn back the car, however, he was apprehended at the spot on suspicion and thereafter, he disclosed his name as Daljinder Singh @ Jinder. On the floor-mat of the seat, next to the driver, a transparent polythene bag was seen in which 400 strips of Diphenoxylate Hydrochloride and Atrophine Sulphate tablets LP-Lornotic were found containing 60

tablets in each strip, total 24000 intoxicant tablets. It is submitted on behalf of the petitioner that after the petitioner was apprehended on suspicion, neither any ruqa was sent to the Police Station nor any compliance of Section 42 of the NDPS Act was made by preparing a report. It is further argued that after the recovery was effected, an information was sent to the Police Station for sending another officer and thereafter, SI Paramjit Singh was deputed and the remaining proceedings were undertaken.

Counsel for the petitioner has further submitted that the petitioner is a first offender and he is in custody for the last 02 years, 03 months and 16 days and it will be a matter of trial whether the provisions of Section 42 of the NDPS Act has been complied with or not as the recovery was effected by the same Investigating Officer and only thereafter, the second Investigating Officer was called at the spot.

Counsel for the State has not disputed the factual position but opposed the prayer for bail. It is also submitted that challan stands presented; charges have been framed on 23.1.2020, however, the trial could not proceed further due to COVID-19 situation in the country and till date, out of 13 prosecution witnesses, none has been examined so far.

Without commenting anything on merits of the case, considering the fact that it will be a moot point to be decided during the course of trial, whether the provisions of Section 42 of the NDPS Act has been complied with or not and also in view of the fact that the petitioner is a first offender; challan stands presented; no PW has been examined so far and conclusion of the trial is likely to 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/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

03.11.2021
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No