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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.43732 of 2020 (O&M)
Decided on: 21.09.2021

Rakesh Kumar @ Raju

....Petitioner

Versus

State of U.T., Chandigarh.

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. J.S. Dadwal, Advocate for the petitioner.

Mr. A.M. Punchhi, P.P., U.T., Chandigarh
with Mr. Anupam Bansal, APP, U.T., Chandigarh.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this 2nd 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.362 dated 12.10.2019, for offence punishable under Section 22 of the Narcotic Drugs and Psychotropic Substances Act (in short 'the NDPS Act') registered at Police Station Sector 39, Chandigarh.

The new ground for filing this 2nd petition is that the petitioner has undergone about 01 year and 10 months of the custody and only 01 PW out of 14 PWs has been examined so far.

Counsel for the petitioner has argued that as per the prosecution version, the petitioner was apprehended by the policy party while on petrol duty, with the allegations that he was found in possession of 12 injections of Buprenorphine of 02 ml each and 04 injections of Pheniramine Malteate of 10 ml each, without any permit or licence. It is further submitted that it will be a matter of trial whether

CASE HEARD THROUGH VIDEO CONFERENCING

the provisions of the NDPS Act were properly complied with or not as the information was sent to the Police Station after effecting the recovery from the petitioner.

Counsel for the U.T., Chandigarh has filed the Custody Certificate, today in the Court and argued that the petitioner was involved in some other FIRs also registered under the Indian Penal Code.

A perusal of the Custody Certificate would show that all the FIRs pertain to the year 2007-08 and there is no FIR in between for a period of about 11 years.

Without commenting anything on merits of the case, considering the fact that the petitioner is not involved in any other case of the NDPS Act; he is in long custody for a period of about 01 year and 10 months; only 01 PW has been examined so far 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

21.09.2021

yakub

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No