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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.52196 of 2021 (O&M)
Decided on: 23.12.2021

Honey Sehgal

....Petitioner

Versus

State of Punjab

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. R.S. Waraich (Rana), 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.32 dated 01.03.2021, for offence punishable under Sections 22/25/29/61/85 of the NDPS Act, registered at Police Station Dakha, District Ludhiana.

Counsel for the petitioner has argued that as per the allegations in the FIR, registered at the instance of ASI Harpreet Singh, while on a patrol duty, he along with other co-police officials received a secret information that one Sukhpal Singh @ Pali is indulged in the business of selling of intoxicant tablets and he is coming on a motorcycle to Mullanpur side for supplying the same and if a barrier is put up, he can be apprehended with huge quantity of the tablets. On receiving the information, a ruqa was sent to the Police Station for conducting the investigation and thereafter, the police party

apprehended him and recovered 15000 intoxicant tablets of TRAMADOL HYDROCHLORIDE. Later on, Sukhpal Singh disclosed the name of one Mandeep Singh @ Manga from whom, he has taken the said tablets and on arrest of Mandeep Singh @ Manga, 40,000 intoxicant tablets were recovered. Again, on the basis of the disclosure statement of Mandeep Singh, the petitioner was nominated in the case and 25,000 tablets were recovered. It is also submitted that the petitioner is the first offender and he is in custody for the last about 03 months and 27 days; the investigation is complete; challan stands presented, however, charges are yet to be framed and there are 18 PWs and it will take long time in conclusion of the trial.

Counsel for the petitioner has further submitted that on an earlier occasion, the petitioner was granted interim bail awaiting the report of the FSL and on receiving the report, in compliance of the order of this Court, the petitioner has surrendered back. It is further submitted that during the said intervening period, when he was on interim bail for a period of about 04 months, he has not misused the concession of bail and has surrendered back on time as per the directions of this Court.

Counsel for the petitioner has also submitted that the police has recorded the successive disclosure statements of the accused persons, therefore, it will be matter of trial whether the nomination of the petitioner, on the basis of the disclosure statement of the co-accused, is admissible in the case in view of the judgment of the Hon'ble Supreme Court *“Tofan Singh vs State of Tamil Nadu”*, 2013(4) RCR (Criminal) 631.

Counsel for the State has not disputed the factual position. It is also not disputed that the petitioner is not involved in any other case and he has not misused the concession of bail, however, counsel for the State has submitted that the recovery is of commercial quantity and therefore, he should not be granted the concession of bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is the first offender and after availing the interim bail, he has surrendered back on time and during that period, no other case is registered against the petitioner and also in view of the fact that the petitioner is not involved in any other case; he is in custody for the last about 03 months and 27 days; charges are yet to be framed and there are 18 PWs cited as a witness in the challan, therefore, 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

23.12.2021

yakub

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No