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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No.18949 of 2022 in/and
CRM-M No.3316 of 2022 (O&M)
Date of Decision: 30.05.2022

KEWAL SINGH

....Petitioner

Vs

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Manpreet Ghuman, Advocate
for the petitioner.

Mr. C.L. Pawar, Sr. D.A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

CRM-18949 of 2022

This is an application under Section 482 Cr.P.C. for placing on record the additional documents as Annexures A-4 to A-6.

For the reasons mentioned in the application, the same is allowed. Additional documents i.e. Annexures A-4 to A-6 are taken on record, subject to all just exceptions.

CRM-5465 of 2022

This is an application under Section 482 Cr.P.C. For placing on record the accompanying documents viz. copy of

ruqa, copies of non-consent/consent memo and copy of recovery memo as Annexures A-1 to A-3.

For the reasons mentioned in the application, the same is allowed. Accompanying documents are taken on record, subject to all just exceptions.

Main case

At the very outset, learned counsel for the petitioner submits that infact the present petition is the second petition for grant of regular bail. Mentioning of first petition is on account of some misconception as the relevant information was not available with to her at the time of filing of the petition.

Petitioner seeks grant of regular bail in his second attempt under Section 439 Cr.P.C in case bearing FIR No.154 dated 20.11.2020, registered under Sections 22, 29, 61 and 85 of the NDPS Act and Section 207 of the M.V. Act at Police Station STF Phase-4, District SAS Nagar, Mohali.

Petitioner along with co-accused Ramanjit Singh @ Raman was apprehended on the basis of secret information and 72000 intoxicant tablets make Tramadol Hydrochloride RL-DOL-100 SR with batch number and other particulars were recovered.

In view of recovery of commercial quantity bail was declined to the petitioner by the Court of Sessions as well as by this Court vide order dated 21.05.2021 passed in CRM-M No.18986 of 2021.

Learned counsel for the petitioner submits that prosecution story on its face value is suspicious. The FIR is stated to have been lodged on 20.11.2020 whereas site plan was prepared by Jagdev Singh SI, STF Unit Sangrur on 28.09.2020 i.e. about two months prior to lodging of FIR. The aforesaid site plan is part of the challan filed by the police.

Learned counsel further submits that the documents viz. consent/non-consent memo and recovery memo have inscription of FIR at the top of the documents, despite the fact that at that time there was no such FIR in existence. Consent memo and non-consent memo are shown to have been signed by the petitioner whereas recovery memo is not shown to have been signed by the petitioner despite the fact that all these documents were prepared at the site.

Learned counsel by relying upon **Makan Singh vs. State of Haryana, 2015(12) SCC 247** contends that keeping in view the stringent provisions of the NDPS Act, compliance of provisions of the said Act has to be mandatorily done by the

prosecution. Learned counsel also relies upon **Sandeep Kumar vs. State of Punjab, 2019(4) R.C.R. (Criminal) 741** to contend that if the signatures of the accused are not obtained on the recovery memo, then the same amounts to non-compliance of proper procedure of the NDPS Act. Similarly mentioning of FIR at the top of documents viz. consent and non-consent memo is also hit by the ratio of **Ajay Malik vs. State of U.T. Chandigarh, 2009(3) R.C.R. (Criminal) 649.**

Per contra, learned State counsel submits that mentioning of date as 28.09.2020 on the site plan is due to typographical error. Secondly, huge quantity of the contraband has been recovered in the present case and the grounds taken by the petitioner would be tested during trial. However, learned State counsel could not dispute appearance of FIR at the top in consent/non-consent memo and non-appearance of signatures of the petitioner on the recovery memo.

Keeping in view the stage of trial, the case may take sometime in its culmination. FIR was registered on the basis of secret information that the petitioner and co-accused Ramanjit Singh @ Raman are indulged in selling of intoxicant tablets. A *naka* was laid and the petitioner and co-accused Ramanjit Singh @ Raman were arrested. Petitioner is in custody since 20.11.2020.

After hearing learned counsel for the parties, I find that on the basis of material available on record, complicity of the petitioner would remain debatable.

At this stage, without forming any opinion on the merits of the case, keeping in view the period of custody since 20.11.2020 and material available on record, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

May 30, 2022	(RAJ MOHAN SINGH)
<i>Atik</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No