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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.7182 of 2022 (O&M)

Date of decision: 24.02.2022

Gaurav Dutt

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Akshay Kumar Jindal, 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.195 dated 13.11.2021, for offence punishable under Sections 22, 29 of the NDPS Act, registered at Police Station STF Wing, Phase-4, Mohali, District S.A.S. Nagar, Mohali.

Counsel for the petitioner, at the very outset has relied upon the order dated 14.02.2022 passed in CRM-M No.5402 of 2022, vide which the co-accused of the petitioner namely Gagandeep Manchanda @ Gagan, has been granted the concession of regular bail.

The operative part of the said order, reads as under:-

“Learned senior counsel for the petitioner has argued that much prior to the registration of the FIR, the co-accused of the petitioner namely Gaurav Dutt, who is working as a partner with the petitioner has got an FIR No.9 dated 15.01.2021, registered against one SI Surinder Kumar, who is posted at Police Station Jodewal, District

Police Commissionerate, Ludhiana, under Section 7 of the Prevention of Corruption Act, as he was demanding money from him. It is further submitted that in the said FIR, it is stated by Gaurav Dutt that he is doing a private job in Paras Medicare and the said SI Surinder Kumar is threatening him to involve him in some case of NDPS Act.

Learned senior counsel for the petitioner has also submitted that in the said case, a team headed by the Assistant Commissioner of Police, arrested SI Surinder Kumar red-handed at the spot and keeping the grudge of the said incident, now the present FIR has been registered with the allegations that a secret information was received by ASI Rakesh Kumar, STF, Ludhiana, that the petitioner – Gagandeep Manchanda @ Gagan and co-accused Gaurav Dutt, are indulged in sale of narcotics and they can be apprehended with the intoxicant tablets. Thereafter, both the accused persons were apprehended while riding a scooter bearing registration No.PB10-HD-4668 and during the search of the scooter, underneath the seat, the recovery of 2460 intoxicant tablets were effected. It is further argued that though as per the FIR, notice under Section 50 of the NDPS Act was given and even the Gazetted Officer was called at the spot, however, the false implication of the accused persons cannot be ruled out on account of registration of FIR No.9 against one of the police official.

Learned senior counsel for the petitioner has also referred to the licence issued to the petitioner under the Drugs and Cosmetics Act on 01.03.2016 along with an application for renewal of the same after 2019 wherein the petitioner has already deposited the licence fee, however, it is stated that on account of registration of the FIR, the same was not renewed. Lastly, it is argued that the petitioner is in custody for the last about 03 months and he is not involved in any other case.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail. It is further submitted that by following the proper procedure, the recovery was effected from the petitioner and the co-accused Gaurav Dutt, however, the registration of FIR No.9 against one of the police official is not disputed. It is also not disputed that at point of time, the petitioner – Gagandeep Manchanda was holding a Drug Licence for which, he has made an application for its renewal.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last about 03 months; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required and the conclusion of the trial will 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/Illaq Magistrate/Duty Magistrate.”

For the sake of brevity, the facts are not reproduced again.

Counsel for the petitioner has argued that in fact, it is the petitioner, who has got an FIR registered under Section 7 of the Prevention of Corruption Act against SI Surinder Kumar, who was posted in Police Station Jodewal, District Ludhiana and on that account, the present FIR has been registered, falsely implicating the petitioner in the present case.

Counsel for the State could not dispute about the registration of FIR No.9, however, it is submitted that the petitioner was apprehended at the spot along with the co-accused Gagandeep Manchanda @ Gagan, carrying 2460 intoxicant tablets and on the basis of the Custody Certificate has not disputed the factual position but

opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 03 months and 10 days; the co-accused of the petitioner is already released on bail; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required and the conclusion of the trial will 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

24.02.2022

yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No