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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-17080-2022

Date of Decision: September 12, 2022

RAKESH

....Petitioner

VERSUS

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Ashok Giri, Advocate for
for the petitioner.

Mr. M.S. Atwal, AAG, Punjab.

AMAN CHAUDHARY, J.(ORAL)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in respect of FIR No.184 dated 13.07.2021 under Sections 22(c)/29 of NDPS Act 1985, registered at PS Phillaur, District Jalandhar.

Brief facts of the case are that on 09.06.2021, Drug Inspector Rupinder Kaur along with SI Ajit Singh and others had checked Jassi Medical Hall of Om Parkash. Various drugs were taken in possession by Drug Inspector. On 10.06.2021, she produced such drugs before CJM, Jalandhar, who ordered the Drug Inspector to keep drugs with her. Thereafter, on 16.06.2021, Drug Inspector asked the owner of Jassi Medical Hall to produce licence regarding seized drugs. On 10.07.2021, a letter was sent by police to Drug Inspector, to provide details of seized drugs

whereupon she informed that 900 tablets of Tramadol salt and 97 loose capsules of blue colour, were recovered by her. Thereafter, Inspector Jarnail Singh, Incharge CIA Staff, Jalandhar (Rural) got FIR registered against Om Parkash and started investigation. On 16.07.2021, Om Parkash suffered disclosure statement that the recovered tablets/capsules were purchased by him from Daljit Singh, who is having Rohan Medical Store at Ludhiana. On the basis of his statement, Daljit Singh was nominated as accused. Daljit Singh suffered disclosure statement on 21.10.2021 to the effect that recovered tablets/capsule were purchased by him from Rakesh Kumar and thereafter supplied the same to Om Parkash. Thereafter, Rakesh Kumar was nominated as accused and was arrested on 02.12.2021.

Learned counsel submits that the petitioner was not named in the FIR, which has been lodged against one Om Prakash, who was running a chemist shop from whom the contraband was recovered. The said co-accused in his disclosure statement nominated one Daljit Singh who further in his disclosure statement named the petitioner. Learned counsel for the petitioner further submits that the said Daljit Singh has since been granted anticipatory bail by the Coordinate Bench of this Court, vide order dated 29.09.2021, which was confirmed on 01.11.2021. He submits that the petitioner has been in custody for the last more than almost 10 months, on being arrested 6 months after the registration of the FIR, nothing was recovered from him and there are no other case against him.

Learned State counsel opposes the prayer of the petitioner on the ground that the contraband which has been recovered in this case is commercial in nature. However, he is unable to dispute the fact that the

petitioner is involved in this case based on the disclosure statement of co-accused who has since been granted anticipatory bail and that the petitioner has been in custody for the last almost 10 months. He further submits that though the challan has been filed, charges are yet to be framed and there are 14 prosecution witnesses in the case.

Heard learned counsel for the parties.

Keeping in view the facts and circumstances of the case that the petitioner was not named in the FIR and was implicated on basis of the disclosure statement of co-accused and nothing was recovered from him; the co-accused has been granted anticipatory bail; petitioner is in custody for the last almost 10 months and though the challan has been filed but charges are yet to be framed; there are total 14 prosecution witnesses who are yet to be examined, thus, the trial is likely to take considerable time, his further detention behind the bars would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

Resultantly, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to him not being required in any other case. The petitioner shall abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurise/ intimidate the prosecution witnesses.
3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.

4. The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
6. The petitioner shall not in any manner misuse his liberty.
7. Any infraction shall entail in withdrawal of the benefit granted by this Court.

It is, however, clarified that nothing stated hereinabove be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made above, which have only been made for the purpose of adjudicating the present petition for grant of regular bail.

12.09.2022

Sangeeta

**(AMAN CHAUDHARY)
JUDGE**

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No