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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18844-2022 (O&M)

Date of Decision: 22.11.2022

Karan Kapoor @ Sabbi

.. Petitioner

Vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Ms. Arti Kaur, Advocate for the petitioner.

Mr. Kunal Muthreja, AAG, Punjab.

...

Manoj Bajaj, J. (Oral)

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C, pending trial in case FIR No.157 dated 13.12.2020 registered under Section 22 NDPS Act, 1985 at Police Station Rahon, District SBS Nagar. The petitioner is in custody since his arrest on 13.12.2020.

The allegations as noticed by the Ld. Judge Special Court, Shaheed Bhagat Singh Nagar in the order dated 24.02.2021 are as under:

“As per prosecution story, 13 injections of Buprenorphine Leegesic, each measuring 02 ml, bearing batch No.DA086, manufacturing date January 2020 and expiry date December 2021 were recovered from the plastic envelope, which was thrown by applicant/accused. As per the report of Chemical Examiner, the ingredient present in the Buprenorphine injections is Buprenorphine Hydrochloride. This quantity falls within the commercial quantity. Therefore, rigor of Section 37 of the NDPS Act is attracted.”

Learned counsel for the petitioner submits that the recovered

quantity of Buprenorphine injections is marginally above the non-

commercial and the prosecution has examined only three witnesses so far. Learned counsel has further submitted that the petitioner is in custody in this case, as in the other case, he is on bail. She prays for bail.

Learned State counsel assisted by ASI Rashpal Singh, has opposed the prayer on the ground that the alleged contraband recovered from the petitioner falls within the ambit of commercial quantity. He has produced the custody certificate of the petitioner by way of affidavit of Kanwar Surteg Singh, PPS Deputy Superintendent of Central Jail, Ludhiana, which indicates that he is involved in another case of similar nature, but in the said case, he is on bail. According to learned State counsel, the charges were framed on 07.04.2022 and only seven prosecution witnesses still remain to be examined.

At this stage, learned counsel for the petitioner has submitted that in the said case as per prosecution, the petitioner was found to be possessing 5 grams of heroin, which falls in small quantity.

After hearing the learned counsel for the parties and considering the above background, particularly the custodial period of the petitioner, this Court is of the opinion that his further detention behind the bars may not be necessary for any useful purpose, as trial would consume considerable time to conclude. Apart from it, the material witnesses are police officials and at present there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

22.11.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No