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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.20489 of 2021 (O&M)

Date of decision: 30.06.2022

Manpreet Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vipul Jindal, Advocate for the petitioner.

Mr. Joginder Pal Rata, 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.17 dated 26.02.2021, for offence punishable under Section 21 of the NDPS Act (in short 'the NDPS Act') registered at Police Station Bikhiwind, District Tarn Taran.

Counsel for the petitioner has submitted that the petitioner is in custody for the last 01 year and 04 months; investigation is complete and the trial is not proceeding as only 02 PWs have been examined so far.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered at the instance of SI Panna Lal, it is stated that while he was present in the Police Station along with the other co-police officials, he was informed by MHC Jarnail Singh that ASI Paramjit Singh during the petrol duty, has caught hold of a suspicious person and is asking to send the Investigating Officer at the

spot. Thereafter, he along with other co-police officials reached at the spot where ASI Paramjit Singh was present and told SI Panna Lal that he has stopped the said suspicious person, who on seeing the police party had thrown some substance from the right pocket of the trouser on the road and thus, he was stopped on suspicion. Thereafter, SI Panna Lal enquired about his name and he disclosed his name as Manpreet Singh. It is further submitted that initially, he said that the polythene packet contained his medicine and when SI Panna Lal asked ASI Paramjit Singh to pick up the same, he picked up the polythene bag before SI Panna Lal and said that the same contained Heroin. Thereafter, on weighing the same, it was found to be containing 260 gms of Heroin in the polythene packet. It is further submitted that neither in the FIR nor in the report under Section 173 Cr.P.C., it is mentioned that in what manner the information was sent by ASI Paramjit Singh to SI Panna Lal as both the FIR and the report under Section 173 Cr.P.C. speaks that one MHC Jarnail Singh has informed SI Pannal Lal that ASI Paramjit Singh informed him that he has apprehended one person, while on petrol duty. It is also submitted that there is no reference of any telephonic conversation or a DDR or a ruqa sent in this regard and therefore, it will be a matter of trial whether proper procedure has been followed or not though the personal search of the petitioner was conducted, however, no notice under Section 50 of the NDPS Act was given. It is further submitted that the recovery is marginally higher than the commercial quantity and the recovery of 260 gms of Heroin includes the weight of the polythene packet.

In reply, counsel for the State could not dispute the

contents of the FIR as well as the report of 173 Cr.P.C., which is referred to above by counsel for the petitioner. However, it is submitted that since the recovery was from a polythene packet, which was picked up from the road therefore, no notice under Section 50 of the NDPS Act was required. It is also submitted that the petitioner was convicted in the year 2011 for a case under the NDPS Act and his sentence has been suspended.

In reply, counsel for the petitioner has argued that the petitioner is in long custody and he has 02 minor children to take care and considering the fact that it will be a matter of trial whether proper procedure has been followed or not, the petitioner be granted the concession of bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in long custody; only 02 PWs have been examined so far; the custodial interrogation of the petitioner is not required and the conclusion of the trial will 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

30.06.2022

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No