

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-20493-2022
Decided on :18.05.2022

Balkar Singh

. . . Petitioner

Versus

State of Punjab

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Navraj Singh, Advocate
for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 126 dated 28.08.2021 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act registered at Police Station Kathgarh, District SBS Nagar.

Learned counsel for the petitioner has submitted that the petitioner has not been named in the FIR and no recovery has been effected from him. It is further submitted that the recovery has been effected from the co-accused Pawan Kumar and the petitioner has been implicated solely on the basis of the disclosure statement of said Pawan Kumar. It is contended that no recovery has been effected from him even after the disclosure statement of the said Pawan Kumar. Even as per the disclosure statement of Pawan Kumar, it had not been alleged that the petitioner was the seller of the contraband but it had been stated therein that half of the intoxicating tablets recovered from the co-accused Pawan Kumar, belonged to the present petitioner. It is further contended that the

petitioner has been in custody since 29.08.2021 and the challan has been presented and there are as many as 12 witnesses, out of whom none have been examined.

Learned State counsel, on the other hand, has opposed the present application for regular bail and has submitted that the co-accused of the petitioner namely Pawan Kumar, who has been arrested on the spot, has named the present petitioner as being the person who had purchased the said intoxicating tables along with him and half of the said tablets belonged to the present petitioner.

This Court has heard learned counsel for the parties and has perused the paperbook.

The petitioner is not named in the FIR, nor any recovery has been effected from him. The petitioner has been implicated solely on the basis of the disclosure statement of the co-accused Pawan Kumar, from whom the recovery has been effected and even as per the said statement, the petitioner was not the seller of the contraband and has been stated to be the co-purchaser of the intoxicating tablets along with Pawan Kumar. Even after recording of the said disclosure statement, no recovery has been effected from the present petitioner. The question as to whether the petitioner can be convicted on the basis of the disclosure statement of the co-accused, would be adjudicated finally at the time of the trial. The petitioner has been in custody since 29.08.2021 and the challan in the present case has already been presented and there are as many as 12 witnesses, out of whom none has been examined, thus, the trial is likely to take time.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to him not being required in any other case.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

(VIKAS BAHL)
JUDGE

May 18th,2022

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No