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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M No.31373 of 2021 (O&M)

Date of decision: 06.04.2022

Sajan Kumar

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.K. Passi, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this 3rd 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.72 dated 18.04.2018, under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') registered at Police Station City Patti, District Tarn Taran.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered at the instance of SI Thaman Singh, while on petrol duty, a young person was seen coming on foot, holding a polythene bag and on seeing the police party, he became perplexed and tried to throw the polythene bag which he was carrying in his hands. On suspicion, he was apprehended and told his name as Sajan Kumar i.e. the present petitioner. It is further submitted that the same Investigating Officer, as per the FIR, opened the polythene bag and recovered 804 loose intoxicant tablets and therefore, it will be a matter

of trial whether due to non-compliance of Sections 42 and 50 of the NDPS Act, will have a bearing on the case or not. It is also submitted that as per the FSL report, only 10 loose tablets were sent for chemical examination and again, it will be a matter of trial whether the same represent the entire recovery of 804 loose tablets from the petitioner.

Counsel for the petitioner has further argued that the petitioner is in custody for the last about 02 years and 06 months and out of 09 PWs, only 01 PW has been examined, so far.

Counsel for the State 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 about 02 years and 06 months; the custodial interrogation of the petitioner is not required; out of 09 PWs, only 01 PW has been examined 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

06.04.2022

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Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No