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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.45891 of 2021 (O&M)

Date of decision: 17.02.2022

Mulkha Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. N.S. Sidhu, 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.114 dated 08.08.2020, for offence punishable under Sections 22/25/61/85 of the NDPS Act, registered at Police Station Tapa Mandi, District Barnala.

The earlier one were dismissed vide orders dated 23.02.2021 and dated 28.04.2021, passed in CRM-M No.39893 of 2020 and CRM-M No.16820 of 2021, respectively.

The new ground for filing this 3rd petition is that the petitioner is in custody for the last about 01 year and 06 months and out of 17 PWs, none has been examined.

Counsel for the petitioner has argued that as per the allegations in the FIR, registered at the instance of Inspector Gurbinderpal Singh, while on a petrol duty, he got an information that

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one Gurdeep Singh @ Deepa and Mulkha Singh i.e. the petitioner are indulged in the business of sale of intoxicant tablets and are coming on a motorcycle along with the intoxicant tablets and they can be apprehended. Thereafter, an information was sent to the Police Station for registration of the FIR and both the accused were apprehended with 3500 intoxicant tablets of CLOVIDOL 100-SR were recovered from them.

Counsel for the petitioner has further submitted that the petitioner is the first offender and he is in custody for the last about 01 year and 06 months and out of 17 PWs, none has been examined so far, despite the fact that charges were framed on 01.03.2021. It is also argued that the co-accused of the petitioner namely Gurdeep Singh has already been released on bail vide order dated 18.03.2021 passed in CRM-M No.40320 of 2020, considering his old age and health condition. Lastly, it is submitted that it will be a debatable issue to be decided during the course of trial whether while effecting the recovery from the petitioner, proper procedure was followed or not.

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 01 year, 06 months and 08 days; the co-accused of the petitioner is already released on bail; no PW has been examined so far; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to

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COVID-19 situation, 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/Illaqa 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

17.02.2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No