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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.46680 of 2021 (O&M)

Date of decision: 05.07.2022

Manish Kumar

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. J.S. Sandhu, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, 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.56 dated 23.07.2021, for offence punishable under Section 22-A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') registered at Police Station SGN Dev Thermal Plant Bathinda, District Bathinda.

Counsel for the petitioner has argued that the petitioner is in custody for the last about 11 months and 10 days and till date, no PW has been examined. It is also submitted that the petitioner is suffering from seizures, which is reflected in the medical status report, submitted by the Senior Medical Officer, Central Jail, Bathinda, along with the affidavit of the Superintendent, Central Jail, Bathinda, which reads as under:-

*“It is submitted that above said person today
examined by undersigned at Jail Hospital and found that*

he has history of seizures with complaint of backache for which he was already put on guard for referral to Civil Hospital, Bathinda on 16.03.2022. Otherwise, he is healthy and stable.

For above said complaints, he has been again put on guard for referral to Civil Hospital, Bathinda on 20.04.2022. Treatment advised by Doctors at Civil Hospital, Bathinda would be started after examination by Doctors at Civil Hospital, Bathinda.”

Counsel for the petitioner has further contended that as per the allegations in the FIR, registered at the instance of ASI Kaka Singh, while on petrol duty, a clean shaven young man was seen coming on a scooter, carrying a bag. On seeing the police party, he became perplexed and tried to turn his scooter back, however, his scooter slips and he fell down and the intoxicant bottles and tablets scattered on the road. On suspicion, he was apprehended and recovery of 11 vials of Omerex and 08 strips of Carisoprodol containing 10 tablets each i.e. 80 tablets was effected. It is further argued that the salt of Carisoprodol, does not fall under the NDPS Act and the recovery is of 11 vials of Codine Phosphate.

Counsel for the State, on the basis of the affidavit of the Superintendent, Central Jail, Bathinda, has not disputed that the petitioner has a history of seizures, for which he is under treatment at Civil Hospital, Bathinda. It is also stated that out of 12 PWs, none has been examined.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 11 months and 10 days; the petitioner is suffering from seizures; 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

05.07.2022
yakub

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No