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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-1823-2022 (O&M)
Date of decision: 25.09.2023

Ganga Ram

....Petitioner

Versus

Narcotics Control Bureau (NCB) Chandigarh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Sidhant Vermani, Advocate,
For the petitioner.

Ms. Gurmeet Kaur Gill, Senior Panel Counsel,
For respondent-NCB.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seeks his release as an undertrial in a case NCB Crime No.37 dated 27.05.2021, registered under Sections 8, 22, 29, 35, 54, 66 of the Narcotic Drugs and Psychotropic Substances Act 1985 (for short 'NDPS Act'), at Narcotics Control Bureau, NCB, Chandigarh.

2. Per prosecution version, on 27.05.2021, a secret information was received by the Officer of Narcotics Control Bureau sub Zone Amritsar about a suspected parcel containing narcotics which was received at DTDC office Amritsar, allegedly sent by one Mukesh Agency Baltora District Jodhpur and to be received by one Inderjit Singh. The parcel containing the alleged narcotics was seized and upon its search 14,998 NRx Tramadol Hydrochloride Tablets 100 mg were recovered. Inderjit Singh managed to flee from the spot. In course of investigation, it was unearthed that petitioner had booked the said parcel containing Tramadol Hydrochloride tablets. He was arrested on 31.07.2021.

3. Learned counsel for the petitioner submits that petitioner is an employee, posted at Shiv Government Hospital Balotra, Rajasthan and had no knowledge of the contents of the parcel to be sent through courier. He was acting under instructions of one Harmat Singh. He further states that petitioner was merely asked by the principal accused Harmat Singh that the same contains medicines and he had no reason to disbelieve him.

He further submits that the prescription medicine, which later turned out to be tramadol tablets, was in any case arranged by Harmat Singh and he had no role in supplying the same to co-accused Inderjit Singh.

3.1 Learned counsel for the petitioner further contends that petitioner has been made an easy scapegoat in the case. He earlier had joined investigation when notice under section 67 of NDPS Act was served upon him but later on, he was arrested on 31.07.2021. Petitioner was not apprehended from the spot and no recovery has ever been effected from him and since he is only being implicated based upon his own custodial disclosure confessional statement as also of the co-accused, which are not admissible in evidence. Petitioner has thus been falsely implicated in the present case.

3.2 Learned counsel for the petitioner refers to an order dated 21.08.2023 bearing CRM-M-31899-2023 passed by a coordinate Bench of this Court titled '*Harjit Singh @ Rinku vs. State of Punjab*' wherein a coordinate Bench had granted bail to the accused therein from whom 16,140 intoxicating tablets were allegedly recovered, which were more than the quantity of contraband recovered in the instant case i.e., 14,988 intoxicating tablets.

3.3. Learned counsel also submits that nothing is to be recovered now from the petitioner and he is not required for further custodial interrogation. There is no likelihood of petitioner tampering with evidence and/ or influencing prosecution witnesses.

4. On the other hand, learned counsel for NCB, Chandigarh opposes the bail petition. She submits that petitioner has committed a serious offence. In case, petitioner is granted concession of bail, there are chances of his fleeing from justice. Learned counsel further contends that recovery of contraband falls under commercial quantity and rigors of Section 37 of NDPS Act would be attracted in this case. She, however, admits that no other case is pending against him.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. Learned State counsel, on instructions from Sandeep Kumar, Intelligence

charges were also framed long back. Trial has commenced. Out of 20 prosecution witnesses, only three have been examined. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Conclusion of the trial is likely to take quite some time as it is proceeding at a snail pace. Whereas, petitioner has already been languishing in jail for more than 02 years and 01 month, being in custody since 31.07.2021.

7. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/ or influence witnesses. There is no documentary evidence and it is more in the nature of FSL report *qua* contraband, already filed in the trial Court to which accused has no access. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.

8. Offence allegedly committed by petitioner is of non-violent nature and in that sense his release on bail is not a threat to society at large by committing any violent crime. In any case, allegations against petitioner are matter of trial. At this stage, there appears to be a reasonable ground that petitioner may not be guilty of the alleged offence. He is unlikely to commit any offence while on bail.

9. Petitioner is stated to be a 36-year old family person. He is sole breadwinner of his family and they are living in sheer penury in his absence. Being a family person, having clean antecedents and fixed abode, it is unlikely that he is flight risk or will flee from the trial proceedings.

10. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

11. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

12. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.
13. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.
14. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

25.09.2023
vandana

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