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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M- 9886-2022 (O&M)

Date of Decision: 20.04.2023

Kamaljeet Singh and another

... Petitioners

V/s.

State of Punjab

... Respondent

CORAM: **HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present : Mr. Manoj Kumar, Advocate
for the petitioners.

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

DEEPAK MANCHANDA, J.(Oral)

Petitioners have prayed for grant of regular bail under Section 439 Cr.P.C. in case FIR No. 106 dated 02.08.2021, under Sections 22, 61, 85 NDPS Act registered at Police Station Sanaur, District Patiala who are alleged to have possessed contraband of 2160 intoxicant tablets, which falls under the ambit of commercial quantity.

Learned counsel for the petitioners contends that the petitioners are in custody since 03.08.2021. He submits that the petitioners have been falsely implicated in the present case as the alleged recovery has not been effected from the conscious possession of the petitioners rather it has been effected from the rear seat of the car in which they were travelling. To support his contention, learned counsel also relies upon the judgment

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rendered by the Apex Court in *SLP (Crl.) No. 4173-2022* dated **04.08.2022** titled as *Shariful Islam alias Sarif vs. The State of West Bengal* and *SLP (Crl.) No. 5769/2022* dated **01.08.2022** titled as *Nitish Adhikary alias Bapan vs. The State of West Bengal*. He further submits that the petitioners have no other antecedents and the challan stands presented and the charges have been framed and out of total 12 witnesses only 02 have been examined till date and the conclusion of trial will take sufficient time, therefore, the petitioners be enlarged on bail.

Custody certificates filed by the respondent-State are taken on record. Even though learned counsel appearing on behalf of respondent-State, on instructions from the Investigating Officer, opposes the grant of regular bail to the petitioner, while submitting that the offence alleged against the petitioner is serious in nature, however, does not dispute the fact that challan stands presented and the charges have been framed.

I have heard learned counsel for the parties.

Petitioners are in incarceration since 03.08.2021.

It is not a case made out by the respondent-State that in case concession of bail is granted to the petitioners, they would hamper the course of free and fair trial. Further, since nothing recovered from the conscious possession of the petitioners and the challan stands presented and the charges have been framed and out of total 12 witnesses only 02 have been examined and the trial would take sufficient time, no useful purpose would be served in keeping the petitioners behind bars.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioners be released on regular

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bail subject to their furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned on the following conditions:-

- 1. *they will appear before the Court on each and every date of hearing;*
- 2. *they will not give any threat or intimidation to the prosecution witnesses;*
- 3. *they will not indulge in any criminal activity.*

The Court accepting bonds would ensure that two local sureties who are financially sound having immovable properties within jurisdiction of the district furnish the bonds. The petitioners be asked to surrender their passport.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioners do not abscond and interfere in the trial.

In case the petitioners violates any terms and conditions on which the bail has been granted to them, the prosecution would be entitled to apply for cancellation of their bail.

The petition is allowed.

(DEEPAK MANCHANDA)
JUDGE

20.04.2023
seema

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes /No</i>