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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.10656 of 2022 (O&M)

Date of decision: 25.01.2023

Sukhpal Singh @ Pali

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Naveen Bawa, Advocate
for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this 2nd 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.32 dated 01.03.2021, registered under Sections 22, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act (in short 'the NDPS Act') at Police Station Dakha, District Ludhiana.

Counsel for the petitioner has submitted that the new ground for filing this petition is that the petitioner has undergone the custody of 01 year and 11 months and out of 20 PWs, only 02 PWs have been examined.

Counsel for the petitioner has submitted that as per the allegations in the FIR, a police party headed by ASI Harpreet Singh received a secret information that the petitioner Sukhpal Singh @ Pali is habitual of selling intoxicant tablets. On receiving the information, a

ruqa was sent to the Police Station and the FIR was registered. Thereafter, the police party headed towards Badowal and one person was seen sitting on a motorcycle and he was apprehended and on enquiry, he disclosed his name as Sukhpal Singh @ Pali. Thereafter, a notice was given under Section 50 of the NDPS Act, on which he reposed confidence in the Investigating Officer and the search was conducted and 15000 intoxicant tablets of TRAMADOL HYDROCHLORIDE were recovered.

Counsel for the petitioner has further submitted that the petitioner is a first offender and as on today, he is in custody for about 01 year and 11 months. It is also submitted that once the search was not conducted before a Gazetted Officer or a Magistrate, it will be a matter of trial whether proper compliance under Section 50 of the NDPS Act is made out or not. Lastly, it is submitted that the co-accused of the petitioner namely Honey Sehgal, Daksh Arora, Parveen Kumar, Mandeep Singh @ Manga have already been granted the concession of bail.

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 01 year and 11 months; the co-accused of the petitioner are already released on bail; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required; out of 20 PWs only 02 PWs have been examined so far 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/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

25.01.2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No