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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-11474-2022
Date of Decision: 01.06.2023

Nirmal Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Parminder Singh Sekhon, Advocate
for the petitioner.

Mr. M.S. Tiwana, AAG, Punjab.

HARSH BUNGER J. (ORAL)

Prayer in the present petition, filed under Section 439 of the Code of Criminal Procedure, is for grant of regular bail to the petitioner in case FIR No.72 dated 04.10.2021, under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Sherpur, District Sangrur.

2. Custody certificate dated 31.05.2023 of the petitioner has been filed by learned State counsel in Court today, which is taken on record, subject to all just exceptions.

3. Brief facts of this case are that on 04.10.2021, when Sub Inspector Lakhbir Singh along with the police party was on patrolling duty

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at Sherpur-Bhagwanpura Road, meanwhile, a secret information was received that one Paramjit Singh s/o Sukhdev Singh and Nirmal Singh s/o Gajjan Singh are indulged in selling intoxicant tablets and if raid is conducted then Paramjit Singh and Nirmal Singh can be apprehended along with intoxicating tablets. Finding the information reliable, *ruqa* was sent for registration of FIR. As per information, picket was laid down and both Paramjit Singh and Nirmal Singh were apprehended as per procedure and upon carrying out search, 200 strips each strip containing 10 tablets of Celcidal 100SR, 290 strips each strip containing 10 tablets i.e. total 2900 tablets of Radol-100SR and 60 strips, each strip containing 10 tablets i.e. total 600 tablets of Tramatrast SR-100 were recovered. On all the strips Tramadol Hydrochloride is mentioned which were recovered from them.

4. Learned counsel for the petitioner submits that the present case FIR was registered on the basis of secret information. It is submitted that as per the Forensic Science Laboratory (FSL) Report, the quantity of the alleged recovered contraband from the petitioner comes out to be 229.2 grams and since the alleged recovered contraband falls under the category of non-commercial quantity, accordingly the bar under Section 37 of the Narcotic Drugs and Psychotropic Substances Act is not attracted. It is stated that the petitioner has been in custody since 04.10.2021 and he is not involved in any other NDPS case. Learned counsel next submits that the bail application moved by the petitioner for grant of regular bail has wrongly been dismissed by learned Judge Special Court, Sangrur, vide its order dated 28.12.2021 (Annexure P-2). It is further submitted that the trial would take some time and the petitioner is ready to abide by all the conditions as may

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be imposed by this Court or by the trial Court; accordingly prayer for grant of regular bail is made.

5. Learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness of the offence. However, it is not disputed that the petitioner has been in custody for 01 year 07 months and 27 days (as on 31.05.2023). It is also not disputed that the alleged recovered contraband falls under the category of non-commercial quantity and the petitioner is not involved in any other NDPS case.

6. I have heard learned counsel for the parties and perused the paper book as well as custody certificate filed by learned State counsel, in Court today.

7. In the instant case, the petitioner has been in custody for more than 01 year and 07 months (as on 31.05.2023). As per custody certificate, there is no other case against the petitioner. The contraband allegedly recovered from the petitioner does not fall in the category of commercial quantity, hence the rigors of Section 37 of Narcotic Drugs and Psychotropic Substances Act are not attracted. The trial is likely to take long time to conclude and no useful purpose would be served by keeping the petitioner behind the bars for indefinite period.

8. Keeping in view the aforementioned circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the Trial Court/Illaq Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his

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address at which he intends to reside during the pendency of case and any change in the address shall also be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity, during the pendency of the trial. He shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial.

9. In addition, the petitioner (or any one on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law, in case of the absence of the petitioner from trial without sufficient cause.

10. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

11. The petition is accordingly disposed of.

12. All pending application(s), if any, shall stand closed.

01.06.2023
Himani

(HARSH BUNGER)
JUDGE

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| 1. Whether speaking/reasoned : | Yes/No |
| 2. Whether reportable : | Yes/No |