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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M- 12157-2022 (O&M)
Date of Decision: 10.04.2023

Jaswinder Singh alias Binder

... Petitioner

V/s.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

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

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

DEEPAK MANCHANDA, J.(Oral)

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C. in case FIR No. 127 dated 14.08.2021, under Sections 22, 29, 61, 85 of NDPS Act registered at Police Station Bhikhi, District Mansa.

As per the allegations levelled in the FIR, on suspicion, the petitioner along with co-accused was apprehended by the police and on search, have been found to be in possession of 2500 intoxicating tablets of Tramadol Hydrochloride.

Learned counsel for the petitioner contends that the petitioner is in custody since 14.08.2021. He submits that the petitioner has been falsely implicated in the present case as the said recovery was not effected from his conscious possession rather it was from a *kit* bag. He further submits that the charges have been framed, however, out of total 15

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prosecution witnesses, none has been examined till date. Learned counsel for the petitioner refers to the judgment rendered by the Apex Court in ***Maulana Mohd. Amir Rashdi vs. State of Uttar Pradesh and Another in Criminal Appeal No. 159 of 2012*** while contending that though the recovery is commercial but has not been effected from his conscious possession and the co-accused Happy Singh has already been allowed bail by this Court vide order dated 16.01.2023 passed in CRM-M-53024-2021. He also submits that the petitioner is under custody since long time in the present case and the conclusion of trial will take sufficient time, therefore, prayer is made for the petitioner to be enlarged on bail.

Custody certificate has been filed by the respondent-State, which is 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 and 01 other case is pending against the petitioner, however he does not dispute the fact that charges have been framed and the co-accused has already been allowed bail.

Confronted with the same, learned counsel for the petitioner submits that the petitioner is already on bail in the said FIR.

I have heard learned counsel for the parties.

Petitioner is in incarceration since 14.08.2021.

It is not a case made out by the respondent-State that in case concession of bail is granted to the petitioner, he would hamper the course of free and fair trial. Further, since the challan stands presented and the charges have been framed and the co-accused have already been granted

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bail and the trial would take sufficient time, no useful purpose would be served in keeping the petitioner behind bars.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed accordingly.

(DEEPAK MANCHANDA)
JUDGE

10.04.2023
seema

Whether speaking/reasoned	Yes
Whether Reportable	Yes /No