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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M- 19213-2023 (O&M)
Date of Decision: 01.06. 2023

Rajiv Kumar

... Petitioner

V/s.

State of Haryana

... Respondent

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

Present : Mr. Raj Kumar Gupta, Advocate
for the petitioner.

Mr. Karan Garg, AAG, Haryana.

DEEPAK MANCHANDA, J.(Oral)

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C. in case FIR No. 682 dated 10.12.2021, under Section 22 of NDPS Act and Sections 120-B and 201 IPC registered at Police Station Sector 32-33, Karnal, who is alleged to have purchased and transported the contraband of 2,39,400 intoxicant tablets (which falls in the ambit of commercial quantity) in connivance with co-accused Nitin Chhabra and sold 70,000 tablets from the alleged quantity illegally.

Learned counsel for the petitioner contends that petitioner is in custody since 26.03.2022 and has been falsely implicated only on the disclosure statement of co-accused namely Nitin Chhabra, which is not

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admissible under the eyes of law. It is also argued that no recovery of the alleged contraband has been effected from the petitioner and the other co-accused namely Dinesh Bansal has already been granted regular bail by this Court vide order dated 20.02.2023 passed in CRM-M-25940-2022 and other co-accused Savita Chhabra, who is owner and used to operate M/s. Vandana Medical Store has also been granted bail by the Hon'ble Apex Court in SLP (CRL) 11352 of 2022 vide order dated 20.02.2023.

Learned counsel submits that since challan has been presented but charges are to be framed and the petitioner is in custody since long time in the present case, whereby conclusion of trial shall take sufficient time, therefore, petitioner 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 other cases have also been registered against the petitioner, however he does not dispute the fact that challan stands presented and the co-accused has already been allowed concession of regular bail.

Confronted with the same learned counsel for the petitioner submitted that nothing has been recovered from the petitioner and though other FIRs are pending against the petitioner yet as per settled law laid down by the Apex Court in ***Maulana Mohd. Amir Rashdi vs. State of Uttar Pradesh and Another in Criminal Appeal No. 159 of 2012***, it is the facts of the present case which are required to be considered for the purpose of

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deciding the present bail application.

I have heard learned counsel for the parties.

Petitioner is in incarceration since 26.03.2022.

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 nothing has been recovered from the petitioner and the said fact has been admitted by the State in its reply dated 29.05.2023 and the claim is on parity with the co-accused Dinesh Bansal and Savita Chhabra, who have already been allowed regular bail, the challan stands presented and the trial would take sufficient time, so 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 on the following conditions:-

1. *he shall appear before the Court on each and every date of hearing;*
2. *he shall not give any threat or intimidation to the prosecution witnesses;*
3. *he shall not indulge in any criminal activity.*
4. *he shall not leave India without permission of the Court.*

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.

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

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

The petition is allowed accordingly.

(DEEPAK MANCHANDA)
JUDGE

01.06.2023
Ajay/seema

Whether speaking/reasoned	Yes
Whether Reportable	Yes /No