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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRR-1038-2023 (O&M)****DATE OF DECISION: 17.07.2023****Parveen****...Petitioner****Versus****State of Haryana****...Respondent****CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. Parminder Singh, Advocate,
For the petitioner.

Mr. Karan Garg, AAG, Haryana.

ARUN MONGA, J. (ORAL)

Instant criminal revision petition is against an order dated 28.03.2022 whereby application seeking default bail has been dismissed by learned Additional Sessions Judge, Karnal.

2. Per First Information Report (FIR), based on a secret information on 20.09.2022, co-accused, namely, Om Parkash was intercepted by the police and 08 strips of Aplrazolam and 14 strips of Bupre Norphine Sublingual Tablets were recovered from the right pocket of his shirt. He was taken into custody and during his interrogation, he suffered disclosure statement that Parveen (present petitioner) gave him those tablets.

3. Learned counsel for the petitioner at the outset submits that since incomplete challan has been filed without Forensic Science Laboratory report, petitioner is entitled to default bail under Section 167 (2) Cr.P.C. Petitioner is in custody since 23.09.2022.

4. Learned State counsel strenuously argues that in the present case non-submitting of Forensic Science Laboratory report along with challan is of no relevance as the contraband recovered from the accused is a prescribed drug, beyond permissible quantity without there being any license or permit for the

same and identity of the drug since not in dispute, therefore, Forensic Science Laboratory report for identification of the contraband, even if not filed, does not entitle petitioner to seek any special concession from the Court. Therefore, he argues that petitioner is not entitled to default bail.

4.1 In support of his contention, learned State counsel has relied upon decision dated 18.05.2022 rendered by a co-ordinate Bench of this Court in CRR No.109 of 2021 titled “Jagjit Singh v. State of Haryana” decided on 18.05.2022 by a co-ordinate Bench of this Court, wherein default bail was rejected to the petitioner therein.

5. At this stage, on oral request of learned counsel for petitioner, instant revision petition is treated as petition under Section 439 Cr.P.C for grant of regular bail. Registry to assign number to criminal miscellaneous main petition.

6. Petitioner has already undergone 10 months as undertrial. Alleged contraband is stated to have been recovered from prime accused, namely, Om Parkash who is already in custody. It is only on the basis of his custodial interrogation statement that petitioner was apprehended on mere suspicion of being his accomplice.

7. Learned counsel for petitioner further argues that petitioner has been falsely implicated as his name figured in the second disclosure statement made by co-accused Om Parkash. He further contends that petitioner was earlier working with Juvilent Food Works Limited at Noida. Later he joined the same company in 2019 and is working there since then. Due to continued incarceration, he has lost not only his livelihood and even his marriage which was slated for 09.03.2023 had to be cancelled and is thus living under constant state of uncertainty.

8. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

9. Challan has been filed and trial has commenced, petitioner is not required any more for custodial interrogation. Bail allows the accused to maintain their freedom until their guilt or innocence is determined. In any case, allegations against the petitioner are a matter of trial. Trial is unlikely to conclude in near future. Whereas, petitioner has already been languishing in jail for the past around 09 months in preventive custody, he being in custody since 23.09.2022. All the witnesses are official in nature. Therefore, apprehension of the prosecution that petitioner should be kept in custody on the ground that he is likely to tamper with the evidence or influence the witnesses, seem unfounded.

10. Considering the overall scenario and without commenting on the merits of case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep petitioners in further preventive custody.

11. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

12. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of their bail in the instant case.

13. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.

14. Pending application(s), if any, shall also stand disposed of.

JULY 17, 2023
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No