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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-21469-2022 (O&M)

Date of decision: 21.08.2023

Rajveer Singh @ Raja

....Petitioner

versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Lovepreet Singh Sidhu, Advocate for petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seeks his release as an undertrial in a case bearing FIR No.71dated 16.05.2021, registered under Sections 22 (C)of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station,Jaitu, District Faridkot.

2. Per prosecution case, on 16.05.2021, petitioner and his co-accused were apprehended by the police party on a suspicion. Prescription medicine consisting of 190 strips of NRx Tramadol Hydrochloride Tablets/100 MG CLOVIDOLE-100 SR tablets were recovered from conscious possession of the petitioner. Each strip contained 10 tablets,thus a total 1900 tablets. FIR was registered. Petitioner is in custody since then i.e. 16.05.2021.

3. Learned counsel for the petitioner further submits that petitioner has been falsely implicated in this case. He further contends that in the present case, provisions of Section 50 of the NDPS Act were not complied with. He further urges that no independent witness was joined by the police party.

3.1 He also submits that nothing is to be recovered from the petitioner and he is not required for further custodial interrogation. There is no likelihood of petitioner tampering with evidence and/or influencing prosecution witnesses.

4. On the other hand, learned State counsel, on instructions from ASI Jagsir Singh opposes the bail petition. She submits that petitioner has committed a serious offence. In case, petitioner is granted concession of bail, there are chances of his fleeing from justice. Learned State counsel further contends that recovery of contraband falls under commercial quantity and rigors of Section 37 of NDPS Act would be attracted in this case. She submits that three other cases of similar nature were pending against him out of which in one case though he is on

bail and in other two cases he has been acquitted, per custody certificate.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.
6. On a Court query, learned State counsels submit that challan was filed on 08.11.2021 and charges were framed on 21.11.2021. There are 19 prosecution witnesses, 12 have been examined and next date before learned trial Court is 05.09.2023. Conclusion of the trial is likely to take quite sometime. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner has already been in jail for more than 02 years and 03 months in preventive custody, being in custody since 16.05.2021.
7. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/ or influence witnesses. There is no documentary evidence and it is more in the nature of FSL report *qua* contraband, already filed in the trial Court to which accused has no access. There is no probability of tampering with evidence as the same has already been seized by the investigating agency. As regards witnesses, they are all official and therefore, they are unlikely to be influenced, even if there is any such apprehension by the prosecution.
8. Be that as it may, offence allegedly committed by petitioner is of non-violent nature and in that sense his release on bail is not a threat to society at large by committing any violent crime. In any case, allegations against petitioner are matter of trial. At this stage, there appears to be a reasonable ground that petitioner may not be guilty of the alleged offence. He is unlikely to commit any offence while on bail.
9. Petitioner is stated to be 40-year old, a family person and only bread winner of his family. He is agriculturist by profession and fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.
10. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.
11. Accordingly, petitioner is ordered to be released on bail, if not required in any other case, 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 his 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.

(ARUN MONGA)
JUDGE

21.08.2023
vandana

Whether speaking/reasoned:Yes/No

Whether reportable:Yes/No