

CRM-M-24067-2022 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-24067-2022 (O&M)

Date of decision: August 03, 2023

Parminder Singh

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Shivam Joshi, Advocate,
Mr. Prabhjot Kaur, 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 undertrial in a case bearing FIR No.131 dated 21.11.2021, registered under Sections 22, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') (Section 25 of NDPS Act added later on), at Police Station, Ghoman, Police District Batala.

2. Per prosecution version, on 21.11.2021, *nakabandi* (barricading) was erected and on a secret information Nirmal Singh and Parminder Singh @ Prince (petitioner) travelling in a car were intercepted. On search, 38000 tablets (Tramadol Hydrochloride, total 10,412 grams) were recovered from the boot of their car. Copy of RC of the vehicle and Insurance in the name of Navneet Kumar were also recovered. A receipt regarding transfer of the Car in favour of Sharanjit Kaur wife of Nirmal Singh was also recovered. Accused were arrested on the spot. Petitioner is in custody since 21.11.2021.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated. He submits that no independent witness was involved while effecting the search on a busy road. Nothing is to be recovered from the petitioner and he is not required for further custodial interrogation. Petitioner has been falsely implicated in this case merely being son of co-accused Nirmal Singh, who is allegedly involved in sale/purchase of prescription tablets from Agra and Delhi.

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3.1. Learned counsel also urges that there was no compliance of even the mandatory provisions of NDPS Act as no gazetted officer was joined by the police at the time of alleged recovery/seizure of contraband. There is no likelihood of petitioner tampering with evidence and/ or influencing prosecution witnesses.

3.2. Learned counsel further submits that co-accused, namely Sharanjit Kaur (mother of petitioner) has been granted concession of anticipatory bail vide order dated 28.03.2022 (Annexure P-2) passed in CRM-M-54697-2021 by a co-ordinate Bench of this Court.

4. On the other hand, learned State counsel, on instructions from ASI Kulwant Singh opposes the bail petition. She submits that petitioner has committed a serious offence. If released on bail, there is likelihood of petitioner fleeing from trial proceedings and/ or tampering with evidence and influencing witnesses. Learned State counsel though admits that there is no other case pending against the petitioner.

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 counsel informs that challan was filed on 09.05.2022, but charges are not framed yet. There are 19 prosecution witnesses. Investigation is thus complete and petitioner is not required for custodial interrogation.

7. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Trial is likely to take long time as it is proceeding at a snail pace. Whereas, petitioner has already languishing in jail for the last more than 1 year and 8 months in preventive custody, being behind bars since 21.11.2021.

8. 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.

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9. 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 not likely to commit any offence while on bail.
10. Petitioner is stated to be 26-year young person having added responsibilities of his mother to look after. Father of the petitioner is already in custody. Being family man having clean antecedents and fixed abode, it is unlikely that he poses flight risk or will flee from the trial proceedings.
11. 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.
12. Accordingly, petitioner is ordered to be released on bail, in case 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.
13. 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.
14. 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.
15. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 03, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No