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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.30046 of 2022 (O&M)

Date of decision: 01.02.2023

Ravi Kumar @ Ravi

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. G.S. Sandhu, Advocate
for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this 2nd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.0014 dated 02.02.2021, registered under Sections 22(c)/61/85 of the Narcotic Drugs and Psychotropic Substances Act (in short 'the NDPS Act') at Police Station Kabarwala, District Sri Muktsar Sahib.

The new ground for filing this petition is that the petitioner is in long custody of about 02 years and till date, no PW has been examined.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered at the instance of ASI Harbhajan Singh, while on petrol duty, a truck bearing No.PB29-R-8624, was stopped for checking. The driver of the truck told his name as Ravi Kumar @ Ravi i.e. the present petitioner and the co-accused/conductor

of the truck disclosed his name as Gurmeet Singh @ Binna. From the side of the conductor, a plastic bag of white colour was found on the back of the driver seat. On suspicion, the information was sent to the Police Station and thereafter, ASI concerned was called at the spot and the Deputy Superintendent of Police/Gazetted Officer was also called at the spot and in his presence, on search, 27,000 tablets of TRAMADOL HYDROCHLORIDE was recovered.

Counsel for the petitioner has further submitted that the co-accused of the petitioner i.e. the conductor namely Gurmeet Singh @ Binna, is involved in 08 cases of NDPS Act and has already been convicted for a period of 10 years whereas the present petitioner is not involved in any other case and the recovery was effected from the conductor and therefore, it will be a debatable issue whether the petitioner was found in conscious possession of the same.

Lastly, it is argued that as on today, the petitioner is in custody for a period of about 02 years and till date, out of 23 PWs, no PW has been examined.

Counsel for the State, on instructions from SI Ranjit Singh and on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail. It is also not disputed that till date, no PW has been examined so far.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last about 02 years; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required; out of 23 PWs, no PW has been examined so far and the conclusion of the trial will take some

time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

01.02.2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No