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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-31683-2022 (O&M)

Date of decision: 21.08.2023

Jagmeet Singh @ Katta

....Petitioner

versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Jaspreet Singh Brar, 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.71 dated 09.05.2022, registered under Section 22 (C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station, Sadar Jaitu, District Faridkot.

2. Per prosecution case, on 09.05.2022, on a surprise check, 4400 tablets of prescription medicine NRx Tramadol Hydrochloride 100 mg/Traken-100 were recovered from conscious possession of the petitioner along with co-accused while they were going on a two wheeler. Petitioner was arrested. He is in custody ever since.

3. Learned counsel for the petitioner further submits that petitioner is totally innocent and has been falsely implicated merely because, as a good citizen, he had offered lift to the prime accused. The said prime accused was carrying a water cooler with him from where alleged recovery was made. Other than having been found in the company of prime-accused, no other role has been attributed to the petitioner by the prosecution itself.

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. He further submits that no other case is pending against the petitioner.

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 however, admits that no other case is pending against him.

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 submits that challan was presented on 03.11.2022. Investigation is thus complete *qua* petitioner, he is not required for custodial interrogation. Commencement/conclusion of the trial is likely to take quite sometime. Charges were framed on 09.11.2022. There are 22 prosecution witnesses. None has been examined till date. 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 01 year and 03 months in preventive custody, being in custody since 09.05.2022.

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 a young student, aged 23 years, who has recently finished his course from ITI, Faridkot and is on the cross-roads of his career and his future is getting severely jeopardized. He has already lost his livelihood due to prolonged incarceration. Having clean antecedents 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