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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-30343OF 2023

DATE OF DECISION: 03.07.2023

Vikram @ Bikkar**...Petitioner**

Versus

State of Punjab**...Respondent****CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present: Mr. Ashok Giri, Advocate,
For the petitioner.

Mr. Mohit Thakur, AAG, Punjab.

ARUN MONGA, J. (ORAL)

Petitioner before this Court seeks bail in the criminal case bearing FIR No.12 dated 12.01.2023, registered under Section 21 of the NDPS Act at Police Station Division No.2, District Pathankot.

2. According to the FIR, on 12.01.2023, a police party led by Sub-Inspector Jasbir Singh was conducting a routine search for drug peddlers in the area under their jurisdiction, using a government vehicle with registration No. PB-35-Z-2067. They were traveling from Dhera bridge towards Gharota. As the police party reached the cremation ground in Dhera, a confidential informant disclosed that Bikkar s/o Rachhpal @ Kondu was involved in the illegal sale of heroin and was waiting for a customer in a white Maruti 800 car parked near the riverbank at some distance. The informant suggested that a raid could lead to catching him red-handed. Acting on this information, SI Jasbir Singh sent a handwritten report (*ruqa*) to the police station for the registration of the FIR. A formal FIR was registered, and separate information under Section 42 of the Act was also sent to S.P. Manoj Kumar, Detective, Pathankot. Allegedly, 255 grams of contraband heroin were recovered from a transparent envelope near

the gear box. The petitioner was arrested same day and has been in custody since then.

3. Learned counsel for petitioner inter alia contends that petitioner has been falsely implicated. Alleged recovery was not made from his conscious possession. It was recovered from gear box. No independent witness was joined.

3.1. Learned counsel further contends that challan is yet to be filed. Petitioner is in custody since day one of FIR. Conclusion of trial will take long time. No useful purpose would be served by keeping petitioner in further preventive custody.

3.2 Learned counsel would further argue that from prosecution version, it is an admitted case that contraband was weighed along with the envelope which resulted in quantity being marginally more than the commercial quantity i.e., 250 grams. Even otherwise, learned counsel canvasses that, if only the contraband were weighed without envelope same would have been less than commercial quantity, entitling the petitioner to lesser rigors of statutory provisions pertaining to non-commercial quantity.

3.3. Learned counsel for petitioner further points out that mother of petitioner is suffering from serious ailments and is bed ridden. He further submits that petitioner is sole breadwinner of his family. He has four children and there is no one to look after his aged senior citizen mother, his wife and children, who are finding it very difficult to pursue their daily pursuits in the absence of petitioner. His brother is also handicapped.

4. Per contra, learned State counsel opposes the bail petition and submits that the recovery is commercial in nature. He further submits that petitioner is a habitual offender. He is involved in two other cases bearing FIR No.107 dated 30.06.2022 registered under Section 21 of NDPS Act at Police Station Division No.2, Pathankot and FIR No.06 dated 30.01.2020 registered

under Sections 21 & 29 of NDPS Act at Police Station Division No.2, Pathankot.

5. *Apropos*, learned counsel for petitioner informs that petitioner is on bail in both the above mentioned cases.

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

7. Petitioner is in custody in this case since 12.01.2023. Challan is though yet to be presented despite petitioner languishing in custody for past 5 months, even though investigation is stated to be complete. Conclusion of trial will take long time, while petitioner continues to be in jail.

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

9. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of the Trial Court, where his case is to be tried and in case presiding officer is not available, before Duty Court, as the case may be.

10. 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 even in the instant case.

JULY 03, 2023
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(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No