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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-32753-2023 (O&M)

Date of decision: July 14, 2023

Vicky @ Laddu

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Malkiat S. Hundal, Advocate for petitioner.

Mr. Mohit Thakur, AAG Punjab.

ARUN MONGA, J. (ORAL)

Petitioner seeks bail in case bearing FIR No.174 dated 17.12.2022, registered under Section 22C, 27-A, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station Sultanwind, Amritsar.

2. Per First Information Report (FIR), on secret information received by the police official, raid was conducted and 5,000 intoxicant tablets tramadol hydrochloride were recovered from main accused Varinder Singh, of whom petitioner is alleged to be an accomplice. An FIR was registered in this case. On the custodial statement of main accused, a further raid was conducted and petitioner was arrested along with alleged 2,500 intoxicant tablets of the same salt, *ibid*.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. Alleged recovery of 2500 tablets was actually planted on him. There is no independent witness of the said recovery. He further submits that petitioner was not named in the FIR. He has been implicated in this case on confessional statement of co-accused Varinder Singh. He submits that petitioner was granted concession of interim bail vide order dated 21.02.2023. Thereafter, on 22.04.2023, challan was presented and report of chemical examination was received. Interim bail was later dismissed and petitioner was sent to judicial custody vide order dated 22.05.2023 (Annexure P-3) by learned Court below. He submits that petitioner is though involved in two more cases, but he is on bail in those cases.

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4. On the other hand, learned State counsel, on instructions from ASI Gurmeet Singh opposes the bail petition. He submits that petitioner has committed a serious offence. The contraband recovered from petitioner is of commercial quantity.

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

6. In the present case, 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.

6.1. Petitioner was released on interim bail vide order dated 21.02.2023 awaiting the report of chemical examination of the contraband. After challan was presented in this case and report from Chemical Examiner was received on 22.05.2023, petitioner was sent to judicial custody on the same day. During the interim period he did not misuse the concession of bail.

7. Challan was filed on 11.06.2020 and charges were also framed on 02.11.2021. Since trial has commenced, petitioner is not required for custodial interrogation. Out of total 12 witnesses, only 3 have been examined so far. Trial is likely to take long time. Whereas, petitioner has already been in jail for about four months in preventive custody, being behind bars from 17.12.2022 to 21.02.2023 and then from 22.05.2023 to date. Petitioner is stated to be 29-year old married person having one small child, wife and old aged parents to look after. His family is fully dependent on him and is living in sheer penury in his absence.

8. 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.

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9. Accordingly, petitioner is ordered to be released on bail 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.
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 in the instant case.
11. 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.
12. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 14, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No