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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-33386-2023 (O&M)

Date of decision: August 17, 2023

Nirvair Singh

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Jashandeep Singh Sandhu, Advocate for petitioner.

Ms. Guramrit Kaur, DAG Punjab.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner, before this Court seekshis release as undertrial in a case bearing FIR No.140 dated 01.12.2022, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') (Section 29 of NDPS Act added later on), at Police Station, Lakho Ke Behram, District Ferozepur, Punjab.

2. Per prosecution version, petitioner and co-accused, namely Bohar Singh were apprehended on a secret information, while coming on motorcycle. On search of a plastic bag being carried by them, recovery of 5,000 intoxicating tablets of Tramadol Hydrochloride 100 mg. (Clovedol-100SR) was made. An FIR was registered in this regard. Both are in custody since 01.12.2022.

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case. He submits that no independent witness was joined. He also submits that neither petitioner was taken before a gazetted officer nor was any gazetted officer called at the spot. Thus, there is violation of mandatory provisions of Sections 50 of the NDPS Act. Even compliance of Sections 42 and 52 of the NDPS Act has also not been made. He also submits that nothing is to be recovered from the petitioner. There is no other case pending against the petitioner.

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3.2. Learned counsel further submits that petitioner's wife as well as his ailing mother (aged 95 years) are bed-ridden and there is no other male member in the family to look after them.

4. Matter was heard earlier also on 10.08.2023 when time was granted to the State to file a specific affidavit *qua* medical condition of petitioner's wife, who is stated to be bed ridden as well as ailing mother who suffers from age related problems being 95-year old senior citizen.

5. On resumed hearing today, learned State counsel submits that due to paucity of time, report could not be filed. However, she informs, under instructions from ASI Gurkanwaljit Kaur, that petitioner's wife is indeed unwell and needs immediate medical care and attention of her husband (petitioner herein), since there is no male member in the family. Other than his wife, petitioner has got mother and grandmother as the only two adults at home.

6. Faced with the above, learned counsel for the petitioner states that he does not press his prayer seeking regular bail at this stage and requests that petitioner may be released on interim bail on medical grounds.

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

8. Given the condition of the wife of the petitioner and his family setup, I am of the view that there is an emergent situation requiring him to attend his ailing wife *qua* her medical care and attention. Learned counsel for petitioner also points out that there are two minor children also from the wedlock who are living in utter state of neglect, since their mother (wife of petitioner) is bed-ridden. Petitioner is only male member in the family.

9. On a Court query, learned State counsel submits that challan has already been presented. Investigation is complete *qua* petitioner, he is thus not required for custodial interrogation. Out of total 13 witnesses, only one has been examined so far. Whereas, petitioner has already been languishing in jail for the last more than 8 months in preventive custody, being behind bars since 01.12.2022.

15. Disposed of, accordingly.

Yes/No