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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-37682-2023 (O&M)

Date of Decision: 01.12.2023

Amrit Pal @ Kalu

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Arpandeep Narula, Advocate, for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No. 296 dated 20.08.2021, under Section 22(b) of NDPS Act, registered at Police Station Adampur, District Hisar.

2. Learned counsel for the petitioner submitted that the petitioner is in custody for 7 months and 27 days and the allegations in the present FIR were against one co-accused namely, Subhash Chander from whom there was recovery of 600 tablets of Tramadol and the aforesaid Subhash Chander has been discharged by the Court. He submitted that on the disclosure statement of the aforesaid Subhash Chander, another co-accused namely, Ami Lal was nominated. He submitted that the aforesaid co-accused namely, Ami Lal had filed a petition for grant of anticipatory bail

before this Court and this Court vide Annexure P-3 had allowed the anticipatory bail on 28.03.2022 vide Annexure P-3. He further submitted that it was thereafter on the disclosure statement of the aforesaid Ami Lal that the name of the petitioner was nominated and his statement was second in line and the person on whose disclosure statement the name of the petitioner was nominated has already been granted anticipatory bail by this Court. He further submitted that the investigation has already been completed and even charges have been framed by the learned trial Court and mere disclosure statement of a co-accused itself is not admissible in evidence *per se* in view of the judgment of the Hon'ble Supreme Court in ***Tofan Singh V/s. State of Tamil Nadu' [2021 (4) SCC 1]***.

3. On the other hand, Mr. Vishal Kashyap, DAG, Haryana has submitted that although on the last date of hearing last opportunity was granted to the State for filing affidavit/reply but the same has not been filed and some more time may be granted in this regard. He submitted that so far as the custody of the petitioner is concerned, the same is correct and his name was nominated on the basis of disclosure statement of the aforesaid co-accused namely, Ami Lal who was also nominated on the basis of disclosure statement of other co-accused namely, Subhash Chander from whom there was recovery of 600 tablets of Tramadol which falls in the category of commercial quantity and the aforesaid Subhash Chander has been discharged by the Court. He submitted that the petitioner is involved in one more case but not under the NDPS Act.

4. I have heard the learned counsel for the parties.

5. This Court on 09.08.2023 had directed the State to file an affidavit with regard to the role of the petitioner and his antecedents and thereafter last opportunity was granted to the State on 09.11.2023 but till

date affidavit/reply has not been filed. This Court is of the view that no further time can be granted to the State since the prayer made in the petition is for grant of bail and repeated adjournments cannot be granted only on the ground of request made by the State counsel for filing reply. The present is a case where the petitioner has already faced incarceration for 7 months and 27 days. One co-accused namely, Subhash Chander was apprehended with 600 tablets of Tramadol but as per both the learned counsel for the parties and also as per Annexure P-2, he already stands discharged and on his disclosure statement another co-accused namely, Ami Lal was nominated and he has already been granted anticipatory by this Court. So far as the present petitioner is concerned, he was nominated on the basis of disclosure statement of the aforesaid Ami Lal.

6. In view of the aforesaid facts and circumstances, this Court deems it fit and proper to grant regular bail to the petitioner.

7. Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

01.12.2023

rakesh

(JASGURPREET SINGH PURI)

JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No