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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-37940-2023****DATE OF DECISION : 09.08.2023****Sikander Singh****...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. L. S. Sekhon, Advocate,
For the petitioner.

Mr. Mohit Thakur, AAG, Punjab.

ARUN MONGA, J. (ORAL)

After being declined bail by learned trial Court, petitioner before this Court seeks his release as undertrial in a case bearing FIR No.198 dated 29.11.2020, registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station Passiana, District Patiala, Punjab.

2. Per prosecution version, on 29.11.2020, on secret information ASI Jaswinder Singh along with other police officials went to the residence of Charanjit Singh where his son Sikander Singh (present petitioner) was found carrying a cane in his right hand. However, on seeing the police party, he threw the cane and decamped. Upon search of cane, 26 grams of Smack was recovered from it. Ruqa was sent and formal FIR was registered. Investigation was carried out.

3. Learned counsel for the petitioner submits that petitioner was granted anticipatory bail by a co-ordinate Bench of this Court vide order dated 17.03.2021. Challan was presented on 25.10.2021 and vide order dated 23.08.2021, interim bail granted to the petitioner was made absolute.

3.1 Learned counsel further contends that petitioner had been regularly appearing before learned trial Court. But on 01.08.2022 he could not

attend Court on account of illness. He was declared proclaimed person and he subsequently surrendered before learned trial Court on 13.02.2023 and is in custody since then.

3.2 Learned counsel for the petitioner contends that absence of petitioner was neither willful nor intentional as he was regularly attending the trial. Petitioner did not misuse the aforesaid concession of interim bail from 23.08.2021 to 01.08.2022. He further submits that though petitioner absented on 01.08.2022 and again appeared before police on 13.02.2023, but during this period, he did not commit any offence and never indulged in any illegal activity.

3.3 Further contends that petitioner has been falsely implicated as he was not arrested from the spot and alleged recovery is non-commercial in nature. He further urges that the alleged recovery of 26 grams of smack from the roof top of the house of petitioner was without associating any independent witness and was made behind the back of petitioner. 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. Learned counsel for petitioner further submits that in case petitioner is enlarged on bail, he shall continue to appear before learned trial Court on each and every date of hearing without default.

4. On the other hand, learned State counsel on instructions from ASI Inderjit Singh, submits that learned trial Court rightly cancelled the bail of the petitioner since he deliberately chose not to appear on the date fixed and violated the terms of bail bonds. He further contends that since petitioner was declared a proclaimed person in this case, there is every likelihood that he will again flee from trial proceedings.

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

6. In this case, challan was presented and charges were framed. There is no probability of tampering with evidence as the same has already been seized by the investigating agency. As regards witnesses, there are total 13 witnesses and all are officials and therefore, they are unlikely to be influenced, even if there is any such apprehension by the prosecution.

7. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Trial is likely to take long time as it is proceeding at a snail pace. Whereas, petitioner has already been languishing in jail for the last more than five months in preventive custody, being behind bars since 13.02.2023. Pertinently, he was though granted pre arrest bail even before the trial and subsequently on commencement thereof after framing of charges etc.. However, his bail had to be canceled due his default in appearance which is stated to be on account of his illness.

8. 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.

9. Petitioner is stated to be a family man having fixed abode. It is unlikely that he poses any flight risk 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, in case 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

August 09, 2023
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Whether speaking/reasoned: Yes/No

Whether reportable:	Yes/No
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