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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 21.08.2023

Gurjant Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Gurpal Singh Sandhu, Advocate for the petitioner.

Ms. Guramrit Kaur, DAG Punjab.

ARUN MONGA, J. (Oral)

After being declined bail by the trial Court, petitioner before this Court seeks his release as an undertrial in a case bearing FIR No.021 dated 05.02.2023, registered under Sections 21(b) and 29 (added later on) vide Rapat No.48 dated 07.02.2023 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') at Police Station, Kabarwala, District Sri Muktsar Sahib.

2 Per FIR, on 05.02.2023, a police party, on suspicion, apprehended one Kamaldeep Singh whereas, his accomplice Gurpreet Singh alias Gopi fled from spot. 50 grams of heroin was recovered from accused-Kamaldeep Singh. He was taken into custody and FIR was registered. Subsequently, during investigation, on the disclosure statement of accused Gurpreet Singh @ Gopi and Kamaldeep Singh, petitioner was also named as an accused and thus arrested on 03.04.2023 .

3. Learned counsel for petitioner at the outset points out that the prime accused have been accorded the concession of regular bail by the Court below, as per order contained at Annexure P-3. He further submits that challan has been presented and conclusion of trial will take long time, thus, no useful purpose would be served by keeping the petitioner behind the bars. Petitioner is innocent and has been falsely implicated. He further submits petitioner is not named in the

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FIR and nothing is to be recovered from the petitioner. Petitioner is though involved in two other cases, but is on bail in both.

4. Per contra, learned State counsel, on instructions from ASI Sukhdayal Singh, opposes the bail petition. She, however, does not controvert the factual position regarding the concession of bail granted to the prime accused in the present case or to the petitioner in other two cases pending against him.

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

6. Challan was presented on 15.05.2023 and charges were framed. Investigation is thus complete *qua* petitioner, he is not required for custodial interrogation. Commencement/conclusion of the trial is likely to take quite some time as it is proceeding at a snail pace. There are 21 prosecution witnesses and out of them none has been examined till date. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas petitioner has already been languishing in jail for 04 months and 18 days in preventive custody, being behind bars since 03.04.2023

8. 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 Court below 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.

9. Be that as it may, 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.At this stage, there appears to be a reasonable ground that petitioner may not be guilty of the alleged offence. He is unlikely to commit any offence while on bail.

10. Petitioner is stated to be20-year old young boy on the cross roads of his life. And his continued incarceration may ruin his career prospects for rest of his life.

11. The two principal accused in the present case have already been accorded concession of bail.

12. 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.

13. 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.

14. 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.

15. It is made clear that any observations and/or submissions noted herein above 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.

16. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 21, 2023
Ajay

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