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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-44626 OF 2023 (O&M)
DATE OF DECISION: 05.10.2023****Manpreet Singh @ Lucky****...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MR. JUSTICE ARUN MONGA**

Present: Mr. Vishal Sharda, Advocate,
For the petitioner.

Mr. Karan Garg, AAG, Haryana.

ARUN MONGA, J. (ORAL)

Following the denial of bail by the learned trial court, the petitioner is now before this Court seeking his release as an undertrial in a case with FIR No.158 dated 02.05.2023, registered under Sections 22 and 29 of the NDPS Act, 1985, at the Mullana Police Station in Ambala.

2. Per the prosecution case, on 02.05.2023, SI Hoshiyar Singh, along with a police party, barricaded near National Highway village Suhana, T.Point, Mullana, apprehended the petitioner, who was allegedly carrying 125 strips of intoxicated capsules of Paracetamol, Dicyclomine Hydrochloride, Tramadol Hydrochloride capsules Proxywel Spas, kept in the boot space of his Activa, without any permit or license. A formal FIR was registered. The petitioner was arrested at the spot and has been in custody ever since.

3. Learned counsel for the petitioner contends that mandatory provisions of Section 50 of the NDPS Act were not complied with. No independent witness was joined by the police party. The petitioner has thus been falsely implicated in this case. He also submits that the petitioner has a clean record and is not involved in any other case.

3.1 He further urges that nothing is to be recovered from the petitioner, and he is not required for further custodial interrogation. There is no

likelihood of the petitioner tampering with evidence and/or influencing prosecution witnesses.

3.2 In support of his contentions, learned counsel further relies on a judgment rendered by this Court in the case of Inderjeet Singh @ Laddi and others v. State of Punjab¹, wherein it has been held that awaiting the report of the Chemical Examiner/FSL, the accused can be granted interim bail until the receiving of such a report.

4. Although the learned State counsel has not disputed the factual position as aforementioned, he opposes the bail petition. He submits that if the petitioner is granted bail or interim bail, there are chances of his fleeing from trial proceedings. He further contends that the petitioner is a habitual offender and is involved in two other cases of a similar nature.

4.1 In rebuttal, learned counsel for the petitioner admits that the petitioner is involved in two other cases but emphasizes that the petitioner is currently out on bail in those cases.

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

6. In response to a query from the Court, under instructions from ASI Chhatar Pal, the learned State counsel informs that the challan was presented on July 13, 2022. The investigation regarding the petitioner is complete, and he is thus not required for custodial interrogation. At this stage, the allegations against the petitioner are subject to trial. Of the twenty-one prosecution witnesses, none have been examined so far. The trial's progress has been slow, and it is anticipated to take a considerable amount of time. Bail serves the purpose of allowing an accused to remain free until their guilt or innocence is determined. In contrast, the petitioner has been in detention since May 02, 2023, for more than 05 months.

7. In the judgment of this Court in Inderjeet Singh @ Laddi's case (supra), it has been held that awaiting the report of the Chemical Examiner/FSL, the accused-petitioner can be granted interim bail until the receiving of such a report.

8. In the premise, I am of the view that the petitioner is entitled to interim relief. Accordingly, this petition is disposed of, and the petitioner is ordered to be released on interim bail, subject to his furnishing bail/surety bonds to the satisfaction of the learned trial Court where his case is being tried. In case he/she is not available, this should be done before the learned Duty Judge, as the case may be, until the receipt of the FSL report. The learned trial Court shall issue a notice to the petitioner after the receipt of the FSL report. The petitioner shall also submit an undertaking before the learned Court below, along with his bail/surety bonds, that he will surrender before the trial Court upon receiving the FSL report. Upon appearance, the petitioner shall be entitled to move an appropriate application for the grant of regular bail before the learned trial Court, which shall be decided in accordance with the law.

9. In case the petitioner is found involved or gets involved in any offense while on interim bail, the prosecution shall be at liberty to seek the cancellation of his bail in the instant case.

10. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on the merits of the case, as the same are for the limited purpose of hearing the instant bail petition alone, and the learned trial Court shall proceed without being influenced by this order.

11. Pending applications, if any, shall also stand disposed of."

OCTOBER 05, 2023
Shalini

(ARUN MONGA)
JUDGE

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