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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-49466-2023 (O&M)

Date of decision: 05.10.2023

Hardeep Singh @ Deepa

....Petitioner

Versus

State of Punjab

...Respondent

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

Mr. Hakam Singh, AAG, Punjab.

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.30 dated 01.02.2023, registered under Sections 21, 22, and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) at the Patran Police Station in Patiala.

2. According to the prosecution's version, on 01.02.2023, at about 6:15 p.m., SI Manpreet Singh along with a police party was checking vehicles in the area of Dhaba Gujran, Patran. A car, a Hyundai Eon, approached from the Narwana side. The driver of the car attempted to speed through the barricade but was stopped on suspicion. Upon inquiry, the driver identified himself as Harpal Singh, and the person sitting beside him identified himself as Hardeep Singh alias Deepa (the present petitioner). Upon searching, 7 grams of heroin and 1200 tablets of alprazolam were discovered. An FIR was registered. During the investigation, the accused Harpal Singh and the petitioner revealed that they had purchased the alprazolam tablets and heroin from co-accused Gurwinder Singh @ Gopi. On the same day, Gurwinder Singh @ Gopi was also arrested in this case. The petitioner has been in custody in this case since 01.02.2023.

3. Learned counsel for the petitioner contends that the provisions of Section 50 of the NDPS Act have not been complied with. No independent witness was present at the time of the alleged recovery, and no recovery was made from the conscious possession of the petitioner. The petitioner has thus been falsely implicated in the present

case.

3.1 He further contends that as per the prosecution, the alleged contraband was supplied to them by co-accused Gurwinder Singh @ Gopi, who has been granted regular bail by a coordinate Bench of this Court vide order dated 20.06.2023 (Annexure P-4).

3.2. He further submits that nothing more needs 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.

4. On the other hand, learned State counsel opposes the bail petition, arguing that the petitioner has committed a serious offense. If the petitioner is granted bail, there are chances of him fleeing from trial proceedings. He submits that the recovery of contraband falls within the ambit of a commercial quantity, and the rigors of Section 37 of the NDPS Act would be attracted in this case. However, he admits that no other case is pending against him.

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 Charanjit Singh, learned State counsel submits that after filing the challan, charges were framed. Investigation is thus complete regarding the petitioner, and he is not required for custodial interrogation.

7. At this stage, the allegations against the petitioner are subject to trial. 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 February 01, 2023, for more than 08 months.

8. The investigation regarding the petitioner is over, but he is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence or influence witnesses. There is no documentary evidence, and it is more in the nature of an FSL report concerning the contraband, which has already been filed in the Court below and is inaccessible to the accused. As for the witnesses, they are

all official, and therefore, they are unlikely to be influenced, even if there are any such apprehensions by the prosecution.

9. Be that as it may, the offense allegedly committed by the petitioner is non-violent in nature, and in that sense, his release on bail does not pose a threat to society at large in terms of committing any violent crime.

10. The petitioner is stated to be a 38-year-old family person. He is the sole breadwinner of his family, which is living in sheer penury in his absence. Being a family person with a clean record, it is unlikely that he is a flight risk or will flee from the trial proceedings.

11. 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 by keeping the petitioner in further preventive custody.

12. Accordingly, the petitioner is ordered to be released on bail, if not required in any other case, upon furnishing bail bonds and surety bonds to the satisfaction of the Ld. trial Court, where his case is being tried, and in case he/she is not available, before the learned Duty Judge, as the case may be.

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

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

15. Pending applications, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

05.10.2023
vandana

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