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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52776-2023 (O&M)
Date of decision : 08.12.2023

Ramesh Kumar

.....Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. D.N. Ganeriwala, Advocate with
Mr. Kanisth Ganeriwala, Advocate
for the petitioner.

Mr. Rajneesh Chadwal, AAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

CRM-50533-2023

Prayer in the present petition is for amendment in the headnote of the main bail petition to the extent that the same be read as third instead of fourth regular bail petition.

Notice in the application.

Mr. Rajneesh Chadwal, AAG, Haryana accepts notice on behalf of the State and pleads no objection if the application is allowed.

For the reasons mentioned in the application, the same is allowed and the bail petition be read as third regular bail petition instead of fourth regular bail petition.

CRM-50534-2023

Application is allowed as prayed for.

Annexures P-12 and P-13 are taken on record.

CRM-M-52776-2023

Petitioner has approached this Court by way of present third petition praying for grant of regular bail in case FIR No.41 dated 22.02.2021, under Sections 22(C), 27-A of NDPS Act, 1985 at Police Station Sadar Fatehabad, District Fatehabad.

Brief facts of the case are that on 22.02.2021, a police party headed by ASI Surya Kant, apprehended co-accused namely, Suresh Kumar and Sandeep Kumar who were riding on motorcycle No.HR-24-AB/3992 on NH-9 in front of Ganga bri-kiln in the area of Village Akanwali. After making necessary compliance of notice under Section 50 of NDPS Act, recovery of 45 strips of Tramadol Hydrochloride 100 mg. SR Tablets, having weight 201.06 grams; 123 strips (total 984 capsules) of Superdol-Plus Tramadol Hydrochloride, Paracetamol and Dicyclomine Hydrochloride Capsules having weight of 793.35 grams was made from the polythene being carried by them in the presence of Sh.Ashwani Chalia, Sub Divisional Officer, CADA, Fatehabad. On interrogation co-accused Sandeep Kumar and Suresh Kumar suffered disclosure statement regarding purchase of contraband from co-accused namely, Chunni Ram @ Sandeep resident of Village Mehrana. Then on 12.03.2021, co-accused Chunni Ram @ Sandeep was joined in the investigation. On interrogation, co-accused Chunni Ram @ Sandeep suffered disclosure statement disclosing about selling the recovered narcotic tablets to co-accused Suresh Kumar and Sandeep Kumar after

purchasing the same from the petitioner-Ramesh Kumar. During investigation, production warrants of petitioner-Ramesh Kumar were obtained. He was joined in investigation and was arrested on 18.05.2022. After completion of investigation, report under Section 173 Cr.P.C. was presented before the Court. Petitioner approached the Court of learned Additional Sessions Judge, Fatehabad for grant of bail, however, after hearing counsel for the parties, learned Additional Sessions Judge, dismissed the same vide order dated 26.07.2022. Thereafter, petitioner approached this Court by way of filing CRM-M-2544-2022 which was dismissed as withdrawn on 24.02.2022 and CRM-M-44644-2022 which was dismissed on 20.04.2023. Now the petitioner is before this Court by way of filing present third petition for the grant of regular bail.

Learned counsel for the petitioner has submitted that petitioner is named on the basis of disclosure statement of co-accused namely, Chunni Ram @ Sandeep. He has submitted that petitioner is in custody for the last more than a year and is involved in two other cases however, he is on bail in those cases. He submits that similarly situated co-accused namely, Sandeep Kumar, Suresh Kumar and Chunni Ram @ Sandeep have already been granted bail by this Court vide order dated 28.03.2022 passed in CRM-M-36298-2021, CRM-M-50265-2021 and CRM-M-1289-2022 respectively. He has further submitted that the petitioner was in judicial custody and he was not even present at the spot. He further stated that the disclosure statement is not an admissible evidence and the petitioner has been falsely implicated in this case. He has further stated that petitioner is in custody since 18.05.2022 and trial of the case will take sufficient long time and as such petitioner is entitled to be

released on bail especially on the basis of parity as co-accused namely, Santosh Kumar, Suresh Kumar and Chunni Ram @ Sandeep have already been granted bail by this Court.

Learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that out of 20 prosecution witnesses, 04 witnesses have been examined. He further submits that there are other two cases against the petitioner, however, he is on bail in those cases. He further submits that the petitioner is a habitual offender as other cases are also registered against him and he has been involved in this case on the basis of disclosure statement suffered by Chunni Ram @ Sandeep. He further submits that petitioner is not entitled to be released on bail and as such, the present petition is liable to be dismissed.

After hearing counsel for the parties, it is apparent that the petitioner has been named by his co-accused and his involvement in the present case is on the basis of disclosure statement suffered by his co-accused Chunni Ram @ Sandeep as the co-accused of the petitioner namely, Sandeep Kumar, Suresh Kumar and Chunni Ram @ Sandeep have already been enlarged on bail by this Court vide order dated 28.03.2022. So the present petitioner is also entitled to be released on bail on the basis of parity with the above-named co-accused. The trial of the case will take sufficient long time and no purpose would be served by keeping the petitioner in custody for such a long time especially when his co-accused have already been granted bail. Keeping in view the above-said facts, this Court is of the view that the counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on

bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

08.12.2023
rajeev(rvs)

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No