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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-57682-2022 (O&M)

Date of decision: 04.09.2023

Angrej Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Ms. Malkit Kaur, Advocate for
Mr. Vaibhav Sehgal, Advocate,
For the petitioner.

Mr. Shubham Kaushik, AAG, 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.133 dated 17.12.2019, registered under Sections 22 and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') at Police Station, Sadar Raikot, Ludhiana.

3. Per prosecution case, on 17.12.2019, ASI Gursewak Singh and other police officials were on routine patrolling for drug peddlers. They erected nakabandi (barricade) on a linkroad. A secret informer divulged that Hardeep Singh @ Raju and Angrez Singh (petitioner) were habitual of selling intoxicant tablets. He further informed that both of them were on way to Raikot from Johlan on a motorcycle bearing registration No.PB-08-DF-4801. Based on said information, ASI Gursewak Singh sent *ruqa* to Police Station for formal registration of FIR. Further investigation was handed over to ASI Raghbir Singh.

3.1. On seeing co-accused Hardeep Singh alias Raju and petitioner Angrez Singh, while riding a motorcycle, they were signaled stop. The rider of the motorcycle disclosed his name as Angrez (petitioner) while the pillion as Hardeep Singh alias Raju. On their search, 500+1500 tablets of Clovidol-100 SR, which later turned out to containing Tramadol Hydrochloride salt, were recovered from the envelope which was in the possession of co-accused Hardeep Singh @ Raju. Petitioner and co-accused were arrested on the spot. Petitioner has been in custody ever since.

4. Learned counsel for the petitioner contends that petitioner was admitted to interim bail by learned trial Court vide order dated 04.02.2020 (Annexure P-2) awaiting the FSL report. After the FSL report was received, petitioner surrendered on 01.09.2021 and since then he is in custody. He never misused the concession of interim bail. He was regularly appearing before learned trial Court.

4.1 Further argues that no recovery has been effected from the possession of the petitioner. Recovery was effected from the polythene bag and in any case has been planted on the petitioner. He has no link with the alleged recovery. He further submits that mandatory provisions of NDPS Act were not complied with. He further urges that no independent witness was joined by the police party. Petitioner has thus been falsely implicated in the present case.

4.2 Learned counsel also submits that 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.

5. On the other hand, learned State counsel opposes the bail petition. He submits that petitioner has committed a serious offence. In case, petitioner is granted concession of bail, there are chances of his fleeing from justice. Learned State counsel further contends that recovery of contraband falls under commercial quantity and rigors of Section 37 of NDPS Act would be attracted in this case. He however, admits that no other case is pending against him.

6. He submits that in bail matter of co-accused, namely, Hardeep Singh Alias Raju, a coordinate Bench of this Court directed learned Trial Court to conclude trial by 30.09.2023. In compliance of the above said order, 06 prosecution witnesses have been examined and only two are left. He refers to report dated 07.08.2023 submitted by learned Additional District and Sessions Judge, Ludhiana in compliance of order dated 29.04.2023 passed in CRM-M-4097-2022. He submits that as per report, every effort will be made to conclude the trial within time as fixed by this Court.

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

8. Learned State counsel, on instructions from ASI Surender Singh, submits that challan was filed on 11.06.2020 and charges were framed. Investigation *qua* the petitioner is complete. Petitioner is thus not required for custodial interrogation. Allegations against the petitioner are matter of trial. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner has already been in jail for more than 02 years and 20 days, per custody certificate.

9. 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 trial Court 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 have already been examined.

10. 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.

11. However, seeing duration of custody and, since the trial is proceeding at snail pace, I am of the view that petitioner is entitled to concession of bail. Though a coordinate Bench had already directed while disposing of bail petition of co-accused to learned trial Court to expedite the trial proceedings, and yet the trial has still not concluded. Whereas, petitioner is languishing in jail.

12. Petitioner is stated to be a young boy, aged 25 years and is on the cross-roads of his career and his future is getting severely jeopardized due to prolonged incarceration. Having clean antecedents and fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

13. 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.

14. Accordingly, petitioner is ordered to be released on bail, if 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.

15. 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.

16. 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.

17. Learned trial Court is further directed to proceed in the matter and to take appropriate action, if warranted, in terms of the SOP of the State as in detailed judgment dated 28.08.2023 passed by this Court in *IOIN-CRM-M-18507-2022* titled “*Jagjit Singh @ Jaggi Vs. State of Punjab.*”. Guidelines and standard operating procedure (SOP) were ordered to be circulated by this Court to learned Judges in the District Judiciary in the States of Punjab, Haryana and UT Chandigarh.

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

(ARUN MONGA)
JUDGE

04.09.2023
vandana

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