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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-12498-2022
Date of decision: 08.01.2024

Sanjay ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Yashpal Thakur, Advocate for the petitioner.

Mr. Mohit Kapoor, Advocate Addl. A.G. Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner seeking grant of regular bail in criminal case having FIR No.147 dated 29.10.2021, registered under Sections 22/61/85 NDPS Act, 1985, Police Station Bassi Pathana, District Fatehgarh Sahib, Punjab (Annexure P-1).
2. The case of the prosecution in nutshell is that on 29.10.2021 petitioner Sanjay and co-accused Ravinder Singh were arrested by the police and 14 injections of Buprenorphine were recovered from the possession of the petitioner while 16 injections Buprenorphine were recovered from possession of co-accused Ravinder Singh and accordingly both the accused were arrested at the spot.
3. The counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and that the petitioner is in custody for the last more than 2 years and 2 months and is having no

criminal history and it will take considerable time for trial to conclude. It has been further contended that as per the recovery memo, the injections which were recovered from the petitioner were bearing batch number date of manufacture and expiry date while the report of FSL is silent about any batch number etc. and as such the prosecution has failed to connect the recovered articles with the report of analysis submitted by FSL. The counsel for the petitioner further submits that the petitioner is entitled to be released on regular bail.

4. The present petition is contested by the State counsel who submits that commercial quantity of contraband was recovered from possession of the petitioner and as such rigors of Section 37 of NDPS Act are applicable to the instant case. It is further contended that no doubt the petitioner is in custody for last more than 2 years and 2 months and is having no criminal history, still the petitioner is not entitled to grant of bail at this stage when the trial is under progress.

5. I have considered the submissions made by counsel for the parties.

6. As per the case of prosecution, 14 injections of Buprenorphine having batch number, manufacture date and expiry date were recovered from the possession of the petitioner on 29.10.2021. However, report of FSL is silent as to whether any batch number, manufacturing date and expiry date was written on the samples which were sent for examination to the laboratory by the police. Admittedly, the petitioner is in custody for the last more than 2 years and 2 months and it will take considerable time for trial to conclude as till date only 5 witnesses out of total 13 witnesses are

examined on behalf of prosecution and further the petitioner is having no criminal history.

7. In view of the above, this Court is of the opinion that parameters of bail available under Section 37 of NDPS Act, appears to have been satisfied in the present case. In the given circumstances the continuation of the petitioner in custody would not serve any purpose.

8. Consequently, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

08.01.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

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