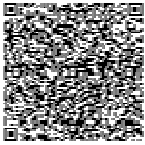


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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-19116-2024 (O&M)
Date of decision: 11.07.2024

Ajay Kumar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

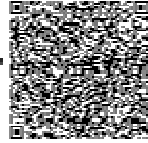
Present:- Mr. Arjun Veer Sharma, Advocate
for the petitioner.

Mr. A. S. Samra, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in FIR No. 168 dated 08.12.2023, registered under Sections 22 and 29 (*added later on*) of the NDPS Act, 1985 at Police Station City Nawanshahar, District S. B. S. Nagar.
2. Brief facts of the case relevant for the disposal of the present petition are that on 08.12.2023, co-accused Sandeep Kumar @ Sonu was arrested by the police and recovery of 450 intoxicant tablets marked as ADDNOK-N having salt of Buprenorphine 2 mg and Naloxone 0.5 mg was effected from him. The petitioner has been nominated in this case on the basis of the disclosure suffered by the said co-accused, wherein he stated that he had procured the recovered intoxicant tablets from the petitioner. The petitioner was arrested on 31.01.2024. The petitioner had moved an application for grant of regular bail before the Court of learned Judge (Special Court), S.B.S. Nagar

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but the same had been dismissed, vide order dated 11.03.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. No subsequent recovery of contraband has been effected from him. The petitioner was not found at the spot and has been involved in this case on the basis of the disclosure statement made by the co-accused, which is not admissible in law against the petitioner. He is in judicial custody since 31.01.2024. The trial is likely to take a long time. No useful purpose would be served by keeping him in custody anymore. It is, therefore, urged that the petition deserves to be allowed. To fortify his argument, learned counsel for the petitioner has relied upon the authority of Hon'ble Supreme Court rendered in ***Tofan Singh vs. State of Tamil Nadu : (2021) 4 SCC 1.***

4. *Per contra*, learned State counsel has argued that though the petitioner has been nominated in this case on the basis of the disclosure suffered by the co-accused but during the course of investigation, the involvement of the petitioner in the subject crime has been established. The petitioner used to supply intoxicant tablets to the co-accused. The co-accused had transferred an amount of Rs. 5900/- into the bank account of the petitioner as payment for supplying the recovered intoxicant tablets. Trial is going on and there is nothing on record that there would be any undue delay in conclusion of the same. It is argued that if the petitioner is released on bail, he may tamper with the prosecution evidence. It is, thus, argued that the petition is liable to be dismissed.

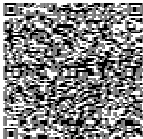
5. I have learned counsel for the parties at considerable length and have also perused the material placed on record.

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6. The petitioner has been nominated in this case on the basis of the disclosure made by co-accused Sandeep Kumar @ Sonu, from whose custody, recovery of 450 intoxicant tablets was effected, which falls under the commercial quantity. The allegation against the petitioner is that he had supplied the recovered tablets to the co-accused on receiving a payment of Rs. 5900/-, which shows that he is actively involved in the business of supplying drugs/contraband. Investigation has since been completed. Challan has been presented and now the case is fixed for 26.07.2024 for leading prosecution evidence. The apprehension raised by learned State counsel that the petitioner, if extended bail, can tamper with the prosecution evidence cannot be stated to be unfounded. So far as the ratio of law as laid down by Hon'ble Supreme Court in ***Tofan Singh***'s case (supra) is concerned, the same is not disputed but it stands clarified by Hon'ble Supreme Court in ***State of Haryana vs. Samarth Kumar : 2022(3) RCR (Criminal) 991***, wherein it has been held that the advantage of decision of ***Tofan Singh***'s case (supra) can be taken at the time of final hearing after conclusion of trial and even at the time of regular bail but that alone cannot form sufficient ground to grant regular bail as other parameters are also required to be looked into as in the present case, the recovery effected from the co-accused falls under commercial quantity and the petitioner is shown to have actively participated in commission of subject crime. Keeping in view the discussion as made above, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the petitioner does not deserve to be granted benefit of regular bail, at this stage. Hence, the petition is dismissed.

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7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

11.07.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No