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

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CRM-M-29426-2024 (O&M)
Date of decision: 07.08.2024

Bamber Singh @ Nikka @ Bember Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. P. S. Sekhon, 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. 23 dated 18.03.2024, registered under Sections 22, 27 and 29 of the NDPS Act, 1985 at Police Station Balianwali, District Bathinda.
2. Brief facts of the case relevant for the disposal of the present petition are that on 18.03.2024, co-accused Pardeep Singh was apprehended by a police and recovery of 2700 intoxicant tablets namely Trekem-100 having salt of Tramadol Hydrochloride was effected from him. On the disclosure statement suffered by co-accused Pardeep Singh, another recovery of 500 intoxicant tablets of Tramadol Hydrochloride was effected. The petitioner has been nominated in this case on the basis of the disclosure suffered by the said co-accused on 21.03.2024, wherein he stated that the recovered intoxicant

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tablets were supplied to him by the petitioner. In pursuance thereof, the petitioner was arrested on 31.03.2024. After completion of necessary investigation and usual formalities, challan under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner along with co-accused is facing trial for commission of aforesaid mentioned offences. He had moved an application before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 24.05.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. 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 aforesaid co-accused, which is not admissible in law against the petitioner. After the arrest of the petitioner, no recovery of any contraband/intoxicant tablets has been effected from him. No independent witness was joined by the police party in investigation and effecting the recovery from the co-accused. 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 on payment of Rs. 300/- per strip. Trial is going on at a proper pace. The petitioner has already been convicted in two cases under the NDPS Act for 10 years and 01 year, respectively. Hence, the rigors of Section 37 of the NDPS Act would be

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attracted against him. It is also argued that if the petitioner is released on bail, he may tamper with the prosecution evidence or may abscond or may indulge in similar offences. 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.

6. The petitioner has been nominated in this case on the basis of the disclosure made by co-accused Pardeep Singh, from whose custody, recovery of 3200 intoxicant tablets of Tramadol Hydrochloride was effected, which falls under the commercial quantity. The allegation against the petitioner is that he used to supply the intoxicant tablets to the co-accused on receiving a payment of Rs. 300/- per strip, which shows that he is actively involved in the business of supplying drugs/contraband. He is also shown to be convicted in two more cases under the NDPS Act for a period of 10 years and 01 year, respectively. Investigation has since been completed. *Challan* has been presented and the trial is going on. There is nothing on record to show that there would be any undue delay in conclusion of trial. The apprehension raised by learned State counsel that the petitioner, if extended bail, can tamper with the prosecution evidence or may abscond or may indulged in similar offences 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

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parameters are also required to be looked into by this Court 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 antecedents of the petitioner, 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.

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.

07.08.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

Yes