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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-29392-2024
DECIDED ON: 11.06.2024

SANDEEP @ SANDEEP KUMAR

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL.

Present: Mr. D.K. Sharma, Advocate
for the petitioner.

Mr. Amit Aggarwal, DAG, Haryana.

VIKRAM AGGARWAL, J (ORAL)

1. The present petition preferred under Section 439 of the Code of Criminal Procedure (for short ‘Cr.P.C.’) is for the grant of regular bail to the petitioner in case FIR No.129 dated 05.05.2024 registered under Sections 22 (c) and 29 of NDPS Act, 1985 at Police Station Sadhaura, District Yamuna Nagar.
2. On 05.05.2024, one Ravi Kumar was apprehended near Dausadhka Chowk Sadhaura, District Yamunanagar and 480 Capsules of Tramadol were recovered from him. On interrogation, he suffered a disclosure statement to the effect that he had purchased the Capsules from the present petitioner. On the basis of the said disclosure statement, the petitioner was arrested on 06.05.2024. Upon his interrogation, he also suffered a disclosure statement and a sum of Rs.1200/- was recovered from him.
3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. He submits that no recovery was made from the petitioner and that his bail application was erroneously dismissed by



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the Additional Sessions Judge, Yamunanagar only on the ground that there was one phone call between him and co-accused Ravi Kumar two days prior to the date when the co-accused Ravi Kumar was apprehended and recovery of 480 Capsules was made from him. Learned counsel submits that the petitioner is not a previous offender and is only 28 years old and any further incarceration would adversely affect him.

4. On the other hand, learned counsel representing the State of Haryana has opposed the bail petition. However, learned counsel could not deny the fact that no recovery has been affected from the petitioner. As per the custody certificate, filed by learned State counsel in the Court today, the petitioner is in custody for the last 01 month and 02 days. Learned counsel could also not deny the fact that apart from the present case, no other case stands registered against the petitioner.

5. Having considered the submissions made by learned counsel for the parties, this Court is of the considered opinion that the petitioner deserves to be released on bail. Admittedly, no recovery was made from him. Under the circumstances, the very admissibility of the disclosure statement alleged to have been suffered by the co-accused Ravi Kumar would be debatable. The petitioner is not stated to be involved in any other case and is in custody since 06.05.2024. No doubt, the quantity of Tramadol recovered from the co-accused is a commercial quantity but this alone would not be sufficient to deny the concession of regular bail of the petitioner keeping in view the facts as have been noticed by this Court. The judgment of the Supreme Court of India in the case of '*State of Haryana Vs. Samarth Kumar*', 2022 (3) RCR (Criminal) 991 would come to the aid of the petitioner in the instant case.



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In view of the aforementioned facts and circumstances, without expressing any opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate Yamunanagar.

11.06.2024
Prince Chawla

(VIKRAM AGGARWAL)
JUDGE

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