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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-29971-2024
Date of decision : 19.09.2024

Malkit Singh
.....Petitioner

versus

State of Punjab
..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Harsh Vardhan Shehrawat, Advocate
for the petitioner.

Mr. J.S. Arora, D.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed by the petitioner under Section 439 Cr.P.C. praying for grant of regular bail in case FIR No.47 dated 14.09.2023, under Sections 22, 29, 61 and 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station City Kurali, District SAS Nagar Mohali.
2. As per the facts of the case, the Police party conducted the search of the Bains Medical Store, which was near the office of the Municipal Committee. On searching the same, total 340 tablets (make Tramadol Hydrochloride 100 MG) were recovered. The owner of Bains Medical Hall, namely, Malkit Singh S/o Sukhdev Singh (petitioner) thus, was found to have committed the offence. He failed to produce any licence for keeping these tablets in the medical hall. The FIR was lodged and he was arrested on spot. Investigation commenced and the samples were taken and sent to the FSL. Thereafter, the petitioner approached the



Learned Judge, Special Court, S.A.S. Nagar (Mohali) for grant of bail, however, after hearing both the sides, the same was declined by the Learned Judge, Special Court vide order dated 06.06.2024. Aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

3. It has been contended by counsel for the petitioner that petitioner has been falsely implicated in the present case. He submits that though it has been alleged that the petitioner is owner of the Bains Medical Hall, however, there is no evidence regarding the ownership of the Medical Hall in the name of the petitioner. It is submitted that the petitioner has no relation with the medical hall and he has been falsely implicated in the present case. He submits that even otherwise as per the FSL report, the contraband recovered falls under the category of non-commercial quantity as the same weights 69.36 grams. Hence even the provisions of Section 37 of NDPS Act are not attracted. He submits that the petitioner is involved in another case under the NDPS Act, however, he is already on bail in that case. He submits that the petitioner is behind bars since 14.09.2023 but till date there is no progress in the trial. He submits that in the facts and circumstances of the present case, petitioner deserves to be granted regular bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner and has submitted that the petitioner was found to be owner of the Medical Hall on which the raid was conducted and on checking the same, 340 tablets were recovered. As per the FSL report, the tablets were found to be of Tramadol Hydrochloride weighing 69.36 grams and thus, the same falls under the category of non-commercial quantity. It is submitted that the challan has



been presented and charges are framed, however, out of 17 prosecution witnesses, no one has been examined so far. He produced the custody certificate of the petitioner in the Court and submits that the petitioner is facing the prosecution in another case, however, he is on bail in that case.

5. Heard. On hearing counsel for the parties and perusing the record, it is apparent from the facts of the case that the recovery was made from the Bains Medical Hall. The petitioner has denied that he is the owner of the same. As per FSL report, 340 tablets recovered were found to be containing Tramadol Hydrochloride salt. However, the same on weighing found to be 69.36 grams, which falls under the non-commercial quantity and thus, the provisions of Section 37 of the NDPS Act are not attracted. Out of total 17 prosecution witnesses, no prosecution witness has been examined so far.

6. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

19.09.2024

(RAJESH BHARDWAJ)
JUDGE

ps-I

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