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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Decided on : 06.09.2024

Dharamveer Singh @ Prince @ Daddu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Manjinder Singh Saini, Advocate
for the petitioner

Mr. R.S. Thind, DAG Punjab

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No.129 dated 11.07.2023 registered under Sections 22, 29, 61, 85 of the Narcotics Drugs and Psychotropic Substances Act, 1985 at Police Station Dasuya, District Hoshiarpur.

2. The facts in brief are that the petitioner-Dharamveer Singh was apprehended with 12 injections of Buprenorphine Hydrochloride alongwith the co-accused Jasvir Kaur who was apprehended with 11 injections of Buprenorphine Hydrocholride.

3. Learned counsel for the petitioner *inter alia* submits that the recovery is marginally higher than the commercial quantity. The petitioner has been convicted in one more case, however, in that case he has undergone actual



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sentence. Learned counsel further submits that the petitioner has already undergone an actual custody of 01 year, 01 month and 21 days. He further submits that the co-accused Javir Kaur has been granted regular bail by this Court vide order dated 04.03.2024 passed in CRM-M-44820-2023.

4. In the cases of '*Sukhchain Singh @ Manga Versus State of Punjab*, CRM-M-7857-2022 decided on 04.04.2022, *Pardeep Singh versus State of Punjab*, CRM-M-46244-2022 decided on 19.01.2023, *Hari Yadav @ Haiya versus State of Punjab* (CRM-M-37645-2021)' decided on 11.11.2022, '*Jang Kanwar Versus State of Punjab* (CRM-M-53415-2021)' decided on 19.01.2022, '*Shankar Prashad Chanau Versus The State of Punjab*, CRM-M-24090-2020, decided on 27.08.2020, *Gurpreet Kumar Versus State of Punjab*, CRM-M-17021-2021, decided on 31.08.2021, *Salim Versus State of Haryana*, CRM-M-42436-2020, decided on 24.02.2021, *Gagandeep Versus State of Punjab*, CRM-M-3055-2021, decided on 27.01.2021, *Gurpreet Singh @ Gopi Versus State of Punjab*, CRM-M-41039-2019, decided on 26.02.2020, *Dalbara Singh Versus State of Punjab*, CRM-M-47880-2022 decided on 16.01.2023', and *Vivek Watts versus State of Punjab*, CRM-M-13791-2022 decided on 15.02.2023, where the recovery from the accused was marginally above the commercial quantity for the respective contraband in each case, the Court granted bail to the accused therein.

5. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. As per the custody certificate, the petitioner has undergone actual custody of 01 year, 01 month and 21 days. He further submits that the petitioner has been convicted in one more case, however, in that case he has undergone actual sentence. He further submits

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prosecution witnesses, none has been examined. The next date of hearing before the trial Court is 19.10.2024. He, however, submits that in view of strict rigors of Section 37 of the NDPS Act and serious allegations against the petitioner, he is not entitled to the concession of regular bail.

6. Heard the rival submissions made by learned counsel for the parties.

7. In the present case, the alleged recovery from the petitioner is of 12 injections of Buprenorphine Hydrochloride, which is marginally higher than the commercial quantity. In this situation, the provisions of Section 37 of the NDPS Act can be relaxed to an extent and the case of the petitioner can be considered for the grant of bail, moreso, when he is in custody since 11.07.2023 and none of the prosecution witnesses have been examined so far.

8. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, charges have been framed on 05.06.2024 and out of 11 prosecution witnesses, none has been examined till date. The petitioner has undergone actual custody of 01 year, 01 month and 21 days and he has been convicted in one more case, however, in that case he has undergone actual sentence.

9. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

(i) The petitioner will not tamper with the evidence during the trial.

(ii) The petitioner will not pressurize/intimidate the prosecution witness(s).



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- (iii) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (iv) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
- (v) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence.

10. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.
11. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

06.09.2024
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(KIRTI SINGH)
JUDGE

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