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CRM-M-40679-2023 (O&M) Neutral Citation No.2024:PHHC:060152

212-2
CRM-M-45878-2023 (O&M) Neutral Citation No. 2024:PHHC:060154

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Date of decision: 01.05.2024

(1) CRM-M-40679-2023 (O&M)

Gurjant Singh @ JantaPetitioner.

Versus

State of PunjabRespondent.

(2) CRM-M-45878-2023 (O&M)

Raj Singh @ Raj KumarPetitioner.

Versus

State of PunjabRespondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Jitender Singh Dadwal, Advocate,
for Mr. D.S. Malwai, Advocate,
for the petitioner in CRM-M-40679-2023.

Mr. Narender Singh Kamboj, Advocate,
for the petitioner in CRM-M-45878-2023.

Mr. Japjot Singh, AAG, Punjab.

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SANJIV BERRY, J. (ORAL)

This order shall dispose of above mentioned two petitions
filed under Section 439 of the Cr.PC for grant of regular bail
to the petitioners i.e. **CRM-M-40679-2023 (O&M)** and
CRM-M-45878-2023 (O&M) as both the petitions arise out of the
same FIR. Details of the FIR are as under: -

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FIR No.	Dated	Sections	Police Station
52	28.05.2023	22(c), 27, 27(b) of the NDPS Act	Kotbhai, District Sri Muktsar Sahib

2. It is, *inter alia*, contended by learned counsel for the petitioners that the petitioners are innocent and have been falsely implicated in this case on the allegation that from the car they were riding, 600 tablets of Tramadol containing 144.6 grams thereof were recovered from their conscious possession on 28.05.2023. They contend that recovery of contraband is not falling within the purview of Section 37 of the NDPS Act and challan has already been presented in the Court. As such, they pray for grant of concession of bail to the petitioners.

3. On the other hand, learned State counsel, has opposed the bail petitions by arguing that the petitioners had kept in their conscious possession huge quantity of tablets containing narcotics substance, i.e. Tramadol, besides keeping in their possession ₹80,000/- as drug money and as such, they are not entitled to grant of relief of bail.

4. Considering the rival contentions and perusing the record, it transpires that instant FIR was registered against the petitioners on the allegations that on the fateful day, the police party while patrolling intercepted the vehicle driven by the petitioner, namely Gurjant Singh @ Janta and the co-accused, namely Raj Singh @ Raj Kumar, sitting beside him and upon suspicion, the search of vehicle was conducted

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leading to recovery of 600 tablets wrapped in 12 packets. Accordingly, the petitioners were arrested. As per the report of the forensic science laboratory, recovered tablets containing Tramadol.

5. Admittedly, the petitioners have been in custody since 28.05.2023 and after completion of investigation, challan has already been presented in the Court; prosecution has cited 17 witnesses and till date none has been examined; recovery of contraband in this case does not fall within the purview of commercial quantity as per Section 37 of the NDPS Act, as is admitted by learned State counsel. The criminal liability, if any, of the petitioners can only be ascertained after the conclusion of trial which may take sufficient long time and in these circumstances, as observed, no purpose would be served in keeping the petitioners in custody any longer to face the incarceration till the conclusion of trial. Accordingly, without commenting on the merits of the case, instant petitions are allowed and the petitioners, *i.e. Gurjant Singh @ Janta in CRM-M-40679-2023 and Raj Singh @ Raj Kumar in CRM-M-45878-2023*, are ordered to be released on bail on their furnishing surety bonds/bail bonds to the satisfaction of Trial Court/Duty Magistrate.

6. The petitioners shall give the undertaking that they will not leave the country without prior permission of the Court; will regularly appear before the trial Court on each and every date; in

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case of some exigency, they will seek prior permission of the concerned Court qua their exemption to appear on the date fixed and they will not tamper with evidence of prosecution in any manner.

7. It is further made clear that in case the petitioners are found involved in any case under the NDPS Act, after their release on bail, it will be open for the prosecution to move an application for cancellation of their bail in accordance with the law.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

9. Petitions stands allowed.

10. Pending miscellaneous applications, if any, also stand disposed of.

01.05.2024
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(SANJIV BERRY)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |