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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-44822-2024(O&M)
Date of decision:-03.12.2024

HIMANSHU

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Ishan Gupta, Mr. Saurabh Sharma Advocates
for the petitioner.
Mr. Surender Singh, AAG, Haryana.

SANJIV BERRY, J. (ORAL)

Learned State counsel has filed custody certificate dated 02.12.2024, the same is taken on record, copies thereof, have been supplied to the counsel opposite.

2. Arguments heard.
3. The instant petition has been preferred by the petitioner under Section 483 of the Bhartiya Nagarik Surakasha Sanhita (BNSS),2023 for grant of regular bail in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
254	25.04.2024	21 (c), 22(c), 29 (added later) of NDPS Act	Krishna Gate, District Kurukshetra

4. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has no concern with the allegations levelled in the instant FIR and has been falsely implicated in this case. He contends



that petitioner was not named in the FIR but was nominated consequent upon the arrest of co-accused Satish Kumar @ Bittu, from whom alleged recovery of commercial quantity of narcotic and psychotropic medicines were effected and on his disclosure statement petitioner was nominated as supplier of the contraband. He contends that neither the petitioner is indulging in narcotics nor he has supplied any contraband to the said Satish Kumar @ Bittu. He contends that the petitioner is having no concern with the alleged recovery and even after his arrest on 27.04.2024 no recovery has been effected from the petitioner. He contends that after completion of investigation, challan has already been presented in Court. He contends that similarly situated co-accused Sushil Kumar has already been granted concession of bail vide order dated 12.09.2024 passed in CRM-M-37682-2024. Hence, prayed for grant of bail to the petitioner.

5. *Per contra*, learned State counsel referring to the reply submitted by the State has opposed the bail application and prayed for dismissal of the bail application on the ground that the petitioner is involved in supply of narcotics, however, he had admitted that the petitioner was nominated on the disclosure statement of co-accused Satish Kumar @ Bittu from whom commercial quantity of narcotic and psychotropic medicines were effected and was arrested on 27.04.2024 and no recovery has been effected from the petitioner nor is there any other case under NDPS Act registered against the petitioner. He further admitted that challan having been presented in Court wherein the prosecution has cited 24 witnesses and till date none of the witness has been examined. He has also not disputed that similarly situated co-accused Sushil Kumar has been granted concession of



bail vide order dated 12.09.2024 passed in CRM-M-37682-2024.

6. After considering the rival contentions and perusing the record, it transpires that one Satish Kumar @ Bittu was apprehended by the police on 25.04.2024 on the basis of secret information and from his possession commercial quantity of narcotic and psychotropic medicines were recovered. During course of his investigation, he suffered disclosure statement allegedly nominating the present petitioner, who accordingly, was arrested on 27.04.2024. Admittedly, no recovery was effected from the petitioner after his arrest, nor is there any previous criminal case registered against him. Apart from this disclosure statement, the evidentiary value thereof, is debatable, there is no other evidence to substantiate the alleged role of the petitioner. Similarly situated co-accused Sushil Kumar has already been granted concession of bail vide order dated 12.09.2024 passed by this Court in CRM-M-37682-2024. After completion of investigation, challan has already been presented in Court, wherein the prosecution has cited 24 witnesses and till date none of the witness has been examined. The conclusion of trial will take sufficient long time to ascertain criminal liability, if any, of the petitioner.

7. Resultantly, without commenting on the merits of the case, it is observed that no purpose would be served by keeping petitioner behind bars. Therefore, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with



evidence of prosecution in any manner.

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

9. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

10. Pending application(s) if any, also stands disposed of.

(SANJIV BERRY)
JUDGE

03.12.2024

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