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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-45457-2024

Date of decision : 03.12.2024

Gurchetan Singh @ Cheta**.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Rahul Aggarwal, 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 483 BNSS, 2023 praying for grant of regular bail in case FIR No.194 dated 05.09.2023, under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Mahilpur, District Hoshiarpur.
2. Status report by way of affidavit of Mr. Jaspreet Singh, PPS, Deputy Superintendent of Police, Sub Division Garhshankar, District Hoshiarpur has been filed on behalf of respondents -State, in the Court today, same is taken on record.
3. Succinctly the facts of the case are that the police party while on patrolling on 05.09.2023, spotted a person coming on a motorcycle with a very high speed. On suspicion he was stopped, however, he tried to escape. However, he was apprehended by the police party and on asking, he disclosed his name as Gurchetan Singh @ Cheta S/o Harjeet Singh



(petitioner). On suspicion, he was given an offer to be searched. On search of his left pocket, white coloured waxed plastic envelope was found and the contraband heroin was recovered from the same weighing to be 252 grams. As he failed to produce any licence for keeping the contraband, the FIR was registered and he was arrested on spot. The samples were taken from the contraband recovered and send to the FSL. However, on receiving the FSL report, it was found that the contraband does not contain Diacetylmorphine and the salt present was found to be Tramadol Hydrochloride. Thus, vide DDR No.21 dated 31.01.2024, the offence under Section 21/61/85 of NDPS Act was deleted and offence under Section 22/61/85 was added. Thereafter, the petitioner approached the Learned Judge, Special Court, Hoshiarpur for grant of bail, however, after hearing both the sides, the same was declined by the Learned Judge, Special Court, Hoshiarpur vide order dated 16.05.2024. Aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

4. It has been vehemently contended by counsel for the petitioner that petitioner has been falsely implicated in the present case. He submits that there was no secret information and it was a chance recovery. He has submitted that the alleged recovery from the person of the petitioner is a planted one and there is a gross violation of provisions of Section 50 of the NDPS Act in this case. He has submitted that the alleged recovery was effected in a public place, however, no independent witness was joined by the police. He submits that earlier the contraband was alleged to be heroin, however, on receiving the FSL report, it was found to be Tramadol Hydrochloride. He has submitted that the quantity above 250 grams is a commercial quantity whereas in the present case, the



alleged recovery effected is 252 grams. He submits that it was weighed along with the polythene bag and thus, the alleged recovery is also marginally above the commercial quantity. He submits that though the petitioner is being prosecuted in another case, however, he is on bail in the said case. He submits that the false implication of the petitioner is *prima facie* found and hence in the overall facts and circumstances of the present case, petitioner deserves to be granted regular bail.

5. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner and has submitted that the search of the petitioner was conducted after compliance of Section 50 of the NDPS Act and from his left pocket 252 grams of contraband was recovered. Though initially on the physical verification, it was found to be heroin, however, the same was found to be Tramadol Hydrochloride as per the FSL report and hence, the offence under Section 21 was deleted and offence under Section 22 was added. He has submitted that the petitioner is involved in one more case. It is submitted that the investigation is already complete; challan has been presented and charges are also framed, however, out of total 14 prosecution witnesses, none has been examined. He thus, submits that no case for grant of regular bail to the petitioner is made out.

6. After hearing counsel for the parties and perusing the record, it is deciphered that the petitioner was arrested on 05.09.2023. The alleged recovery effected from the petitioner is 252 grams of Tramadol Hydrochloride. There is no gainsaying that the quantity above 250 grams is commercial whereas in the present case recovery of 252 grams has been made, which is marginally above the commercial quantity. Though the petitioner is involved in one more case, however, he is on bail in the said



case.

7. 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.

03.12.2024
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(RAJESH BHARDWAJ)
JUDGE

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