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

CRM-M-48895-2023

Date of decision : 18.11.2024

Vikas Gupta

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Rajbir Singh, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, A.A.G., Haryana.

RAJESH BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.48 dated 08.05.2023 under Sections 22C/29-61-85 of NDPS Act, registered at Police Station Mansa Devi, Panchkula.

2. Succinctly the facts of the case are that on 08.05.2023 the Police party received a secret information to the effect that one Prem Pal S/o Sohan Lal, resident of village Saketari was coming to Gymkhana Club Saketri road for supplying some intoxicant medicine and if raid is conducted, he can be apprehended along with the contraband. On finding the information reliable, FIR was registered and the police party conducted the raid. Thereafter, as per the information provided by secret informer, Prem Pal was apprehended alongwith a black colour Bag. On asking he disclosed his name as Prem Pal S/o Sohan Lal. On his personal search, contraband total weighing 1.344 kg was recovered from him. He



failed to produce any licence for possession of the contraband and thus, he was arrested on the spot. Samples were taken and sent to the Forensic Science Laboratory. The name of the petitioner figured in the statement of co-accused who stated the petitioner to be the supplier. Ultimately, the petitioner was arrested in the present case on 10.05.2023. Thereafter, the petitioner approached the Ld. Additional Sessions Judge, Panchkula, for grant of bail twice, however, after hearing both the sides, both the applications were declined by the Ld. Additional Sessions Judge, Panchkula vide orders dated 13.07.2023 and 16.09.2023. Aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

3. Learned counsel for the petitioner has submitted that recovery of 420 tablets is alleged to have been made from the personal search of the petitioner, which as per the FSL report amounts to 24 grams of Diphenoxylate Hydrochloride which falls under the non-commercial category. He submits that after suffering the incarceration of 07 months and 22 days, the petitioner was granted the interim bail by this Court vide order dated 04.01.2024. He submits that the petitioner has no criminal antecedents as he has never been involved in any other case except the present case. He submits that for the recovery of 24,000 tablets from the co-accused, the petitioner has been implicated on the basis of the disclosure statement of the co-accused which in itself is no evidence. He submits that the challan against the petitioner has been filed and after framing of the charges, 01 prosecution witness already stands examined. He submits that the petitioner has not misused the concession of interim bail granted to him by this Court vide order dated 04.01.2024. It is submitted that in the facts and circumstances, the interim bail granted to



the petitioner, deserves to be made absolute.

4. Learned State counsel, however, submits that though the recovery effected from the personal search of the petitioner is of non-commercial in nature. however, as per the disclosure statement of the co-accused, the petitioner is the supplier of the contraband which was recovered from the co-accused which is commercial quantity. Learned State counsel, on instructions from ASI Sanjay Kumar, has submitted that 01 prosecution witness out of total 20 prosecution witnesses, already stands examined. He produced the custody certificate of the petitioner, which would disclose that the petitioner has suffered incarceration of 07 months and 22 days and there is no other case against him.

5. Heard. On hearing counsel for the parties and perusing the record, it is apparent that petitioner was arrested on 10.05.2023 and was released on interim bail on 04.01.2024 and the contraband recovered from the petitioner falls under the non-commercial category. This Court would refrain itself from commenting anything on the merits of the case. Investigation is complete and in all there are 20 prosecution witnesses and only 01 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. Petitioner was released on interim bail on 04.01.2024 and there is nothing on record to suggest that he has ever misused the concession of interim bail granted to him by this Court. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeed in making out a case for grant of regular bail. Accordingly, interim bail granted to the



petitioner vide order dated 04.01.2024 is made absolute and petitioner is ordered to be released on bail on his already furnished bail/surety bonds to the satisfaction of the concerned Trial Court/Duty Magistrate at the time of his release on interim bail. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

7. Petition stands allowed.

18.11.2024

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(RAJESH BHARDWAJ)
JUDGE