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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-50565-2024
Date of Decision: 21.10.2024

Rohit @ Rohan @ Hunny
...Petitioner

Versus

State of Punjab
...Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:- Mr. S.S. Jattan, Advocate and
Ms. Varsha, Advocate
for the petitioner.

Mr. Kampreet Bawa, AAG 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.14 dated 11.02.2020, under Section 22(C) of NDPS Act, 1985 registered at Police Station Sadar Phagwara, District Kapurthala.

2. The facts of the present case are that on 11.02.2020 SI Davinder Singh along with police party spotted a car bearing No. PB-10-CC-2436. Said car was occupied by three persons, who on seeing police party tried to fled away after throwing a bag from which 19 injections of one type and 18 injections of another type were recovered from bag. On asking their names, the person sitting on driver seat disclosed his name Akash and the person sitting adjoining to driver seat, who

had thrown bag, disclosed his name as Rohit (present petitioner) and the person

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sitting on rear seat disclosed his name as Aman. Then the FIR was registered and they were arrested. After completion of the investigation, report under Section 173 Cr.P.C. was also filed. Report of the FSL was received in which it was observed that 18 unlabelled glass injections were containing Buprenorphine Hydrochloride.

3. Learned counsel for the petitioner *inter alia* submits that petitioner has been falsely implicated in the present case and he has clean antecedents. He further submits that the challan was presented on 20.11.2020 in the absence of the petitioner and the case was adjourned to 21.12.2020 for service of notice to the accused. Due to the outbreak of pandemic COVID-19, the proceedings were being adjourned from time to time as per prevailing instructions. On 04.05 2022, the case was transferred to Special Court, Kapurthala and fresh notice was issued to accused for 06.07.2022 but same was never received by the petitioner nor the date was informed by his counsel. On 06.07.2022, learned trial Court cancelled the bail of the petitioner and non-bailable warrants were issued. He further submits that due to mis-communication regarding date of hearings, the petitioner could not appear on date of hearings before learned trial Court and then he was declared proclaimed offender vide order dated 09.10.2023. The petitioner was arrested on 27.10.2023 and since then he is in judicial custody. Learned counsel submits that in the present case charges were framed on 17.05.2024 and out of 11 prosecution witnesses, only 03 prosecution witnesses have been examined. The petitioner has been in custody for 01 year, 01 month and 08 days and there is no other case registered against him. He further submits similarly situated co-accused has been granted concession of regular bail by this Court vide order dated 14.05.2024 passed in CRM-M-23167-2024.

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4. 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 08 days and there is no other case pending against him. Learned State counsel on instructions from ASI Jaswinder Kumar submits that the charges in the present case were framed on 17.05.2024 and out of 13 prosecution witnesses, 03 prosecution witnesses have been examined. He, however, submits that there are serious allegations against the petitioner and he is not entitled to the concession of regular bail.

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

6. Admittedly, the charges were framed on 17.05.2024 and out of total 13 prosecution witness, 03 prosecution witnesses have been examined till date. The petitioner has undergone actual custody of 01 year, 01 month and 08 days and there is no other case pending against him.

7. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, the charges were framed and three prosecution witness have been examined till date. The petitioner has undergone actual custody of 01 year, 01 month and 08 days. Therefore, this Court is of the view that further incarceration of the petitioner would not serve any purpose.

8. 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



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- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (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 from disclosing such facts to the Court or to any police officer or tamper with the evidence.

9. 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.

10. 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.

(KIRTI SINGH)
JUDGE

21.10.2024
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No