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2023:PHHC:139511
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31669-2023
Date of Decision:02.11.2023

Ajay Kumar @ E.C ...Petitioner

vs.

State of Punjab ...Respondent

Coram : **Hon'ble Mr. Justice N.S.Shekhawat**

Present : Mr. Ruhani Chadha, Advocate
for the petitioner.

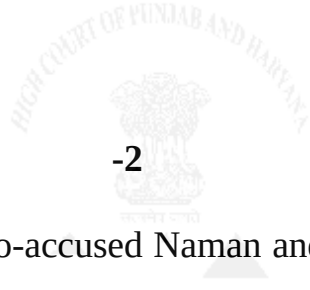
Mr. M.S. Bajwa, DAG, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 Cr.PC with a prayer to grant regular bail in case FIR No. 147 dated 13.08.2018, under Section 22 of NDPS Act, registered at Police Station City, Phagwara, Kapurthala, Annexure P-1.

2. As per the case of the prosecution, a police team headed by the complainant was present at police station and received a phone call that the petitioner namely Ajay Kumar @ E.C and Naman have been caught along with intoxicant injections by the Guard and other persons. On getting the said information, a police team reached at the spot and 65 injections of Avil/10ML and 60 injections of Buprenorphine injection IP 2ML were recovered from a bag, which was carried by co-accused Naman and the FIR was registered against the petitioner and his co-accused Naman.

3. Learned counsel for the petitioner contends that in the present case, it is evident from the Recovery Memo (Annexure P-3) that the entire recovery



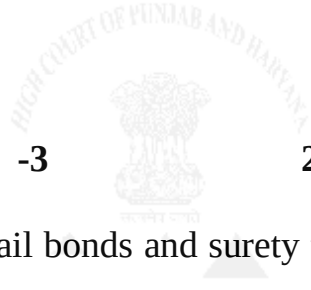
was effected from his co-accused Naman and nothing was recovered from him. He further contends that even the mandatory provisions of Section 50 of the NDPS Act were not complied with, in the present case. He further contends that co-accused Naman has already been admitted to bail by this Court on 04.07.2023 in CRM-M-22707-2023 (O&M). He next contends that the petitioner was arrested in the present case on 18.07.2021 and is in custody for the last about 02 years and 04 months and further custody of the petitioner will not serve meaningful purpose. He further contends that only 04 witnesses out of total 10 witnesses have been examined so far.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the petitioner was declared to be proclaimed offender on 17.07.2021, however, he admits that the petitioner was arrested on the next day itself i.e.18.07.2021. Learned State counsel also submits that there is no other criminal case against the present petitioner and he is a first offender.

5. I have heard the learned counsel for the parties and with their able assistance, I have gone through the Court record carefully.

6. It is evident from the Recovery Memo (Annexure P-3) that the entire recovery was effected in the present case from his co-accused Naman and no recovery was effected from the present petitioner. It is also apparent from the record that the co-accused Naman has already been granted the concession of bail. Even the trial is progressing at snail's pace and the petitioner already in custody for the last about 02 years and 04 months.

7. Without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending



trial on his furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate subject to the following conditions:-

(i) 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 to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.

(vi) In case, the petitioner is involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.

(vii) The concerned Court may insist on two heavy local sureties

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and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.

(viii) The petitioner shall report every 1st Monday of English calender month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the Rojnamcha.

8. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

02.11.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

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