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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-41821-2021
Date of decision: 14.02.2022

Harbhajan Singh @ Bhajja

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Ritesh Pandey, Advocate,
for the petitioner.

Mr. Davinder Bir Singh, DAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Custody certificate dated 12.02.2022, by way of affidavit of the Deputy Superintendent, Central Jail, Amritsar, has been filed through email. Print out of the same is taken on record.

Through this petition, the petitioner seeks regular bail in case bearing FIR No.125 dated 02.06.2020, registered at Police Station Dina Nagar, District Gurdaspur, under Sections 21 and 29 NDPS Act, 1985.

As per the case of the prosecution, 19000 intoxicating capsules 'RIDLEY' were recovered from the petitioner and the co-accused.

Learned counsel for the petitioner contends that the alleged recovery of intoxicating capsules was effected from an envelope lying in

a bag between the legs of the co-accused, near the back seat of the car (bearing registration No.PB10CN-2574) occupied by him (co-accused). Thus, it cannot be said that it was the petitioner, who was in conscious possession of the intoxicating tablets. The petitioner has been in custody for the last more than 08 months. In support of his contentions, learned counsel relies upon the judgment dated 30.09.2021 rendered by a Coordinate Bench in CRM-M-14523-2021, titled as 'Rupinder Singh Vs. State of Punjab'.

On the other hand, learned State counsel, while opposing the submissions made by the learned counsel for the petitioner for the grant of bail, submits that when the petitioner alongwith co-accused was travelling in the car, the alleged recovery of intoxicating tablets had been effected; that the alleged recovery falls under the commercial quantity and Section 37 NDPS Act bars the grant of bail to the accused in the cases involving commercial quantity. In support of his contentions, he relies upon the judgment rendered by the Hon'ble Supreme Court in Union of India through Narcotics Control Bureau, Lucknow Vs. Md. Nawaz Khan 2021(3) Law Herald (SC) 2086.

Learned State counsel further submits that the petitioner is also involved in one more case i.e. FIR No.161 dated 09.09.2017 under Section 21 NDPS Act, Police Station Dina Nagar, wherein he stands released on bail.

I have heard the learned counsel for the parties.

No doubt, the recovery effected in the present case falls under the commercial quantity. Section 37 NDPS Act bars the grant of bail to the accused in the cases involving commercial quantity. The

petitioner is also involved in another case of similar nature, which shows his tendency of committing repeated offence(s) of similar nature.

The State of Punjab which was known as one of the prosperous States is now at the brink of drug-trafficking and in order to curb this menace, the accused like the petitioner are to be dealt with stringently even at the stage of granting her/him bail in NDPS Act cases involving commercial quantity.

The petitioner cannot seek the concession of regular bail, which of course, if granted would pave the way for his involvement in other case of similar nature. Reference may be made to the judgment rendered by the Hon'ble Supreme Court in Md. Nawaz Khan (supra).

Therefore, finding no merit in the present petition, the same is dismissed.

Nothing expressed hereinabove shall be construed as an expression of opinion on the merits of the case.

14.02.2022
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No