

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

210

CRM-M-13068-2022 (O&M)

Date of Decision: 25.05.2022

KELECHI JUSTIN

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Tarun Singhal, Advocate &
Mr. H.C. Chopra, Advocate
for the petitioner.

Mr. Karanbir Singh, AAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioners in case bearing FIR No.04, dated 20.01.2021 under Sections 21(b) and 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Behrampur, District Gurdaspur.

Learned counsel for the petitioner *inter alia* contends that the FIR in question was registered on the statement of ASI Jagir Chand, who has stated that he alongwith other officials of the police party was present at T-Point Rangar Pindi on an official vehicle for the purposes of checking of suspects and patrolling. A secret information was received that two persons, who were African nationals are coming from the side of village Dodwan towards T-Point Rampur and they seemed to be carrying intoxicant articles/substances. Upon apprehension on those two persons, the Senior Officials were called to the spot. The offer in terms of Section 50 of the NDPS Act

was made. Upon search, the petitioner was found to be carrying one polythene carry bag in the right pocket of his jacket, from where the white colour powder was recovered. Upon opening of the said carry bag and the packet therein, heroin was recovered. On weighing the same, it was weighed at 280 grams. A further recovery of 120 grams of heroin was also effected from the other accused namely Mense, who was coming along with the petitioner.

Learned counsel for the petitioner submits that the petitioner does not suffer from any criminal antecedents and has already undergone the actual custody of 01 year, 04 months and 02 days in the present case. He further contends that the co-accused namely Mense has already been granted the concession of bail. It is further contended that this Court has granted the same concession to an accused that was similarly placed with the petitioner herein vide order dated 14.03.2017 passed in CRM-M-7863 of 2017 titled as 'Ugochukwu Henry Vs. State of Punjab' as well as in the matter of 'Obiji Chukwu Maje' bearing No.CRM-M-3074-2020 decided on 20.01.2020. Learned counsel for the petitioner contends that in both the abovesaid cases, the accused persons were found in possession of contraband of commercial quantity and yet taking into consideration the period of custody, which was less as compared to the custody already undergone by the petitioner, they were granted the concession of bail. Learned counsel for the petitioner further contends that even though the charge in the case has been framed, however, no evidence has been led so far, and there are as many as 11 prosecution witnesses to be examined.

Per contra the learned State counsel has pointed out that the co-accused namely Mense, from whom 120 grams of heroin was recovered and to whom concession of bail had been extended, has now absconded and has

already been declared a proclaimed offender. Thus an apprehension has been expressed that in the event of granting bail to the petitioner, there is every likelihood of the petitioner following suit. It is further pointed by the learned State counsel that the case before trial Court is fixed for 06.06.2022 for prosecution evidence and that the prosecution shall affirmatively conclude the evidence within a period of six months from the date next fixed by the trial Court.

In view thereof and taking into consideration the fact that the co-accused namely Mense, to whom the concession of regular bail had been extended by the Court, has already absconded and has been declared as proclaimed offender, I deem it appropriate to dispose of the instant petition with a direction to the respondent authorities to conclude the evidence of prosecution preferably within a period of four months from the date next fixed by the trial Court for recording the prosecution evidence.

Petition stands disposed of accordingly.

(VINOD S. BHARDWAJ)
JUDGE

25.05.2022

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