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Neutral Citation No.2023:PHHC:079051

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

CRM-M-3438-2023

Date of decision: 30.05.2023

Mohd. Asif Anusari @ Mohd. Aasif

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**Present:** Mr. Tajinder Pal Singh Makkar, Advocate
for the petitioner.

Mr. Jashanpreet Singh, DAG, Punjab.

NAMIT KUMAR, J. (ORAL)

1. Petitioner has filed the instant petition under Section 439 Cr.PC seeking regular bail in case FIR No.223 dated 21.09.2022 under Sections 21/21(b) of NDPS Act, 1985 and Section 52 of Prisons Act, 1894 (Offence under Section 29 of NDPS Act, 1985 added later on), registered at Police Station Special Task Force, District STF Wing (Annexure P-1).

2. The brief facts of the prosecution case are that the petitioner-accused was in custody in connection with some other case. While he was in Central Jail, Ludhiana, from his possession 30 grams of heroin was recovered and instant case was registered under Section 21, 21-B of NDPS Act and 52 of Prison Act, 1894. From the further interrogation, petitioner-Mohd Ansari named one Devinder Singh in the present case and offence under Section 29 of NDPS Act was added in the present case.

3. On issuance of notice of motion, status report/reply dated 15.05.2023 and 27.05.2023 have been filed, which are taken on record. Copies thereof have been supplied to the counsel for the petitioner.

4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and is in custody since 24.09.2022. He further submits that the provisions of Section 50 of NDPS Act, 1985 as well as provisions of search and seizure under the Act have not been complied with. He further submits that investigation in the present case is complete; challan has been presented; charges are yet to be framed and trial may take a considerable time to conclude. He further submits that the alleged recovery is of intermediate quantity. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars.

5. Per contra, learned State counsel, while placing on record, custody certificate, opposes the prayer for grant of regular bail to the petitioner by stating that the petitioner is involved in another case FIR No.112 dated 26.08.2022 under Sections 379B/411 IPC, registered at Police Station Daresi. However, he could not dispute that investigation in the present case is complete; challan has been presented; charges are yet to be framed.

6. To controvert the above said contention, learned counsel for the petitioner submits that the petitioner is on bail in the above mentioned case bearing FIR No.112 dated 26.08.2022 and he has produced a copy of order dated 29.10.2022 passed by the Ld. Additional Sessions Judge, Ludhiana whereby petitioner has been granted concession of regular bail.

7. I have heard learned counsel for the parties and perused the record.

8. Keeping in view the custody of the petitioner, which is 08 months and 07 days; investigation is complete; challan has been presented; charges are yet to be framed; in another case petitioner is already on bail and trial is likely to take a considerable time.

9. Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail

subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

10. Accordingly, the present petition stands disposed of.

11. Nothing observed herein shall be construed as an expression of opinion on the merits of the case of either parties.

30.05.2023
Parveen kumar

(NAMIT KUMAR)
JUDGE

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