

222 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-3997-2023
Decided on : 10.08.2023

Chukwudi Samson

..... Petitioner

Versus

State of UT, Chandigarh

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Robin Singh Hooda, Advocate
for the petitioner.

Mr. Ankur Bali, Addl. PP, UT, Chandigarh.

Manjari Nehru Kaul, J.(Oral)

1. Instant petition has been filed by the petitioner under Section 439 Cr.PC seeking concession of regular bail in case FIR No.134 dated 14.08.2022 under Section 21 of NDPS Act (Section 14 of Foreigner Act, 1946 added later on) registered at Police Station Sector 17, Chandigarh.
2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case in hand and false recovery of 172 grams of heroin has been planted upon him. Learned counsel submits that even assuming that the recovery was indeed effected from him, though not conceded, the same is classified as non-commercial under the NDPS Act. Learned counsel further submits that it is highly improbable that the petitioner would have carried the recovered contraband in a transparent polythene and on seeing the police, would have tried to dispose it off while

the police was chasing him. Learned counsel still further submits that during investigation, Section 14 of the Foreigner Act, 1946 had been added against him because he was unable to produce his visa at the time when he was apprehended. Learned counsel submits that at the time of his arrest, he had informed the police, that he was staying in Dwarka Uttam Nagar, South West, Delhi where his passport and visa could be found. Learned counsel, however, submits that the police did not take him to his accommodation at Dwarka Uttam Nagar, South West, Delhi for 2-3 months, during which period the landlord of his accommodation threw his belongings out.

Learned counsel has lastly submitted that the petitioner has been in custody for almost a year having been arrested on 14.08.2022 and still further, 10 prosecution witnesses remain to be examined. Learned counsel submits that he may be put to any stringent conditions while being released on bail as there was no likelihood of the trial concluding in the near future.

3. Per contra, learned State counsel while opposing the submissions and prayer made by the counsel opposite submits that the petitioner, who is a foreign national, had entered India illegally and had been indulging in drug peddling when he was nabbed by the police. Learned State counsel further submits that on being asked to produce his visa, though the petitioner told the police that he could get it from his rented room in Dwarka, Delhi, however, when he was taken to Delhi by the police, neither was he able to locate his address in Delhi nor was he able to produce his visa and passport. Learned

State counsel, however, has not been able to dispute that the recovery of heroin effected from the petitioner is classified as non-commercial under the NDPS Act and that the bar under Section 37 Cr.PC would not come in the way of the petitioner being extended the concession of bail.

4. Heard learned counsel for the parties and perused the relevant material on record.

5. The petitioner has been in custody since 14.08.2022 and only 5 out of 15 prosecution witnesses stand examined. As informed by the State counsel, the next date of hearing fixed before the trial Court is 18.08.2023 when some more prosecution witnesses are likely to be examined. In addition, the recovery effected from the petitioner falls under the non-commercial quantity. The trial is unlikely to conclude in the near future. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to admit the petitioner on bail. However, since the petitioner is a foreign national there could be a likelihood of him fleeing the country, hence, the petitioner is admitted to bail subject to the following conditions:

(i) the petitioner shall be admitted to bail subject to deposit of heavy surety to the satisfaction to the trial Court/Duty Magistrate concerned.

(ii) the petitioner shall also produce two local sureties to the satisfaction of the trial Court concerned.

(iii) as soon as the petitioner is issued his passport by the High Commission of Nigeria, he shall deposit it with the trial Court

concerned.

(iv) the petitioner shall not leave the Union Territory of Chandigarh without prior permission of the trial Court concerned.

(v) the petitioner shall report to the Police Station Sector 17, Chandigarh where the FIR in question has been registered while he is on bail in the Union Territory of Chandigarh on every Monday at 11.00 am.

6. The present petition stands disposed of accordingly. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

10.08.2023
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(MANJARI NEHRU KAUL)
JUDGE

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