

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-31020-2022
Date of decision:- 11.12.2023

Kelvin Amas Iqbanoson
... Petitioner

Versus

State of Punjab
.. Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.Sandeep Arora, Advocate
for the petitioner.

Mr.A.P.S. Tung, DAG, Punjab.

SUVIR SEHGAL, J. (ORAL)

1. Instant petition has been filed under Section 439 Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
155	18.11.2018	Maqsudan, District Jalandhar Rural	21 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”)

2. Version of the prosecution is that FIR, Annexure P1, has been registered on the basis of secret information that Kelvin Amas Iqbanoson, present petitioner, is coming to Jalandhar for search of customers and can be

caught with a huge quantity of contraband. A barricade was set-up, petitioner who was on foot was apprehended and recovery of 1 kg 500 gram heroin was effected from.

3. Counsel for the petitioner has contended that the petitioner is in custody since 22.11.2018 and despite such a long detention, trial is not likely to conclude in near future. He submits that besides the present FIR, petitioner is not accused of any offence under the NDPS Act and he deserves to be released on bail.

4. *Per contra*, learned State counsel upon instructions from ASI Satnam Singh has opposed the petition by inviting the attention of the Court to Section 37 of the NDPS Act. He has also referred to the reply filed by Senior Superintendent of Police, Jalandhar (Rural), which is on the record and submits that as the petitioner is a foreign national, there is an apprehension that he may abscond in case he is released on bail.

5. I have heard and considered the submissions made by counsel for the parties.

6. Petitioner has been in detention for the last almost five years. The prosecution has examined eight out of eleven prosecution witnesses. State counsel has apprised the Court that one out of the remaining three prosecution witnesses is the Investigating Officer, who is paralyzed and is not in a position to depose. It is, therefore evident that there is a remote possibility of an early conclusion of the trial. Hon'ble Supreme Court in ***Dheeraj Kumar Shukla Versus The State of Uttar Pradesh, 2023 SCC Online SC 918*** and ***Special Leave to Appeal (Crl.) No.1166 of 2023*** titled as

Chet Ram @ Ram Veer Versus Union of India, decided on 15.03.2023 has

held that long detention with a remote possibility of early conclusion of trial coupled with clean antecedents of the prisoner, constitute sufficient grounds for release an under-trial. The case of the petitioner falls within the parameters laid down by the Apex Court and he deserves to be released from detention till the conclusion of the criminal proceedings pending against him.

7. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing bail/surety bonds of a local solvent surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.
8. While being released on bail, petitioner shall surrender his passport, if not done so far, as also keep the SHO of the police station concerned apprised of his place of residence by appearing before him, in person, on the first Monday of every month starting from January, 2024.
9. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)

JUDGE

11.12.2023

Brij

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No