

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Rahi Mehra, Advocate for the petitioner.
Mr. A.P.S. Tung, DAG, Punjab.

SUVIR SEHGAL J. (ORAL)

1. This is the 1st petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in:-

FIR No.	Dated	Police Station	Section
68	02.10.2017	Mehta, District Amritsar	21 of the NDPS Act, 1985

2. Version of the prosecution is that during police patrolling, they spotted a person on foot, who panicked when he saw them. On suspicion, he was searched and recovery of 05 grams of heroin was recovered from his trouser's pocket.

3. Counsel for the petitioner submits that the recovery allegedly effected from the petitioner falls within the ambit of small quantity as per the notification issued under the NDPS Act. He submits that the petitioner was enlarged on regular bail vide order dated 06.11.2017, Annexure P-2. Counsel submits that due to a communication gap, petitioner could not appear in the proceedings before the trial court and by order dated 10.02.2023, he was declared as a Proclaimed

- Offender. Counsel submits that the petitioner was arrested on 01.05.2023 and is in confinement since then. He asserts that the petitioner, who has a clean past, deserves to be enlarged on bail.
- Opposing the petition, State counsel upon instructions from SI Nishan Singh, submits that the petitioner does not deserve the concession of bail as he has misused the concession granted to him. He has filed custody certificate dated 09.08.2023, which is taken on record.
 - Having heard counsel for the parties, but without adverting to the merits of the arguments addressed, this Court is of the opinion that the petitioner deserves to be given the concession of regular bail noticing the quantity of contraband recovered from him. Furthermore, unblemished antecedents of the petitioner and the stage of trial, which is at a nascent stage, are other factors, which have weighed with this Court while favourably considering the prayer.
 - Petition is allowed. Petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.
 - It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

10.08.2023
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(SUVIR SEHGAL)
JUDGE

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