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

CRM-M No. 43066 of 2023 (O&M)

Date of Decision:- 11.12.2023

GURWINDER SINGH @ BAGGU

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Kuldip Singh, Advocate, for the petitioner.

Mr. Subhash Godara, Addl. AG, Punjab.

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SANJIV BERRY, J. (ORAL)

CRM-50088 of 2023

1. Application is for preponment of date of hearing of CRM-M-43066 of 2023 from 29.01.2024 to some actual date.

2. Learned counsel for the applicant-petitioner contends that the co-accused Parveen Rani, has been granted regular bail by this Hon'ble Court on 23.11.2023 and hence he prayed for preponment of date for hearing the bail petition.

3. Heard.

4. The application is allowed. CRM-M-43066 of 2023 is preponed and taken on board today itself.

Main case

The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in the following case (Annexure P-1) :-

FIR No.	Dated	Sections	Police Station
28	18.05.2023	21 of NDPS (Section 29 of NDPS added lateron)	Amir Khas, District Fazilka

2. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He submits that alleged recovery of 100 gram of *heroin* was effected from co-accused Parveen Rani who was a pillion rider of the motorcycle on the fateful day and even recovery does not fall within the purview of commercial quantity. He submits that petitioner is in custody since 18.05.2023 and challan has already been presented in Court as such he prayed for grant of concession of bail to the petitioner.

3. Learned State counsel has however prayed for dismissal of bail application considering the nature and gravity of offence. However he has not disputed that 100 gram of heroin was recovered from the co-accused Parveen Rani pillion rider of the motorcycle driven by the petitioner.

4. After considering the rival contentions and perusing the record, it transpires that the recovery of 100 gram of heroin was effected from the co-accused Parveen Rani who was pillion rider of the motorcycle driven by the petitioner and the same does not fall within the purview of commercial quantity. Co-accused Parveen Rani has since been granted concession of bail

vide order dated 23.11.2023. Petitioner is in custody since 18.05.2023, challan has already been presented in Court, and criminal liability, if any, on the petitioner would be determined after completion of trial which will take sufficient long time and no useful purpose would be served by detaining the petitioner any longer in custody.

5. Consequently, without commenting on the merits of the case, it is observed that no purpose would be served by keeping petitioner behind bars. Therefore, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

6. It is further made clear that in case the petitioner is found involved in any case under NDPS Act, after his release on bail, it will be open for the prosecution to move an application for cancellation of his bail in accordance with law.

7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

11.12.2023

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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No