

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

CRM-M No. 48848 of 2022  
Reserved on : 05.10.2023  
Pronounced on :07.10.2023

DINESH KUMAR @ DIMPI

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

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

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

Ms. Swati Batra, DAG, Punjab.

.....

SANJIV BERRY, J.

The instant second 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:-

| FIR No. | Dated      | Sections    | Police Station                      |
|---------|------------|-------------|-------------------------------------|
| 123     | 04.06.2022 | 21 NDPS Act | City-I, Abohar,<br>District Fazilka |

2. In nutshell the case of the prosecution is that aforesaid FIR was registered on the instance of ASI Som Parkash stating that on 04.06.2022 he along with other police officials were present in the area of Abohar-Malout road near Gandhi Petrol Pump, there he received a secret information that Dinesh Kumar and Sukhwinder Singh were habitual of purchasing and

selling of Heroin and they are coming on motor cycle HF Delux No. PB-22Q-0522 from Arniwala towards hamlet of Karaka Singh, if a naka was laid they could be apprehended. Finding information trustworthy, Ruqa was prepared and FIR was registered, thereafter naka was laid at the place disclosed in the secret information and the petitioner was arrested, from his possession 15 gram of Heroin has been recovered.

3. 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 as per prosecution's case 15 grams of herion was recovered from the possession of the petitioner, which falls under the ambit of non-commercial quantity. He submits that although there are three other cases pending trial against the petitioner under the NDPS Act. However, the petitioner has been falsely implicated. Petitioner is in custody since 04.06.2022 and nothing is to be recovered from the petitioner and trial will take long time, no useful purpose would be served by keeping the petitioner behind bars, as such he prays for grant of concession of regular bail to the petitioner.

4. Learned State counsel on the other hand opposed the bail application by submitting that petitioner is involved in three other NDPS cases registered against the petitioner as such prayed for dismissal of the petition.

5. After considering the rival contentions and perusing the record, admittedly the petitioner is in custody since 04.06.2022 in this case and the recovery of contraband does not fall within the purview of commercial quantity so as to attract the provisions of Section 37 of NDPS Act. No doubt

some other cases as mentioned above are registered against the petitioner but the same are pending trial and the criminal liability if any therein would be determined only after conclusion of trial. In the present case the petitioner is in custody since 04.06.2022, the challan has already been presented in Court. As informed by learned State counsel the charges have been framed on 12.08.2022 in this case but till date no witness out of 10 witnesses cited by the prosecution have been examined. This be the state of affair when no witness has been examined by the prosecution for last more than one year and considering the period of custody of the petitioner, the petitioner cannot be allowed to face the incarceration any longer, as the conclusion of trial will take sufficient long time to ascertain the criminal liability if any of the petitioner.

6. Considering these circumstances, without commenting on the merits of the case, 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; 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.

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

**(SANJIV BERRY)**  
**JUDGE**

**07.10.2023**

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