

225 IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 48124 of 2023

Date of Decision:- 04.12.2023

SHAJIL ANSARI @ SHAHJIL

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

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

Present:- Mr. G.V.S. Behl, Advocate,
for the petitioner.

Mr. Aditya Kapoor, AAG, Punjab.

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SANJIV BERRY, J. (ORAL)

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
34	19.02.2023	18 of NDPS Act (29 and 27 NDPS Act added lateron)	G.R.P., District Ludhiana

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 the petitioner was named in the FIR on the basis of disclosure statement made by co-accused Sunita who was apprehended by police in the aforesaid case along with 1.100 kgs. of opium. Recovery effected from co-

accused Sunita does not fall within the purview of commercial quantity and has since been granted concession of bail vide order dated 29.05.2023 passed in *CRM-M-26102 of 2023*. He submits that no recovery has been effected from the petitioner and he is in custody since 16.08.2023 as such he prays for grant of concession of bail.

3. *Per contra*, learned State counsel has opposed the bail application by arguing that co-accused Sunita had disclosed that she had purchased the contraband from the petitioner and as such he is not entitled for concession of bail. He however submitted that challan has been presented in Court after investigation.

4. After considering the rival contentions and perusing the record, it transpires that the petitioner has been nominated in the case on the basis of disclosure statement made by co-accused Sunita who was arrested in the aforesaid FIR along with 1.100 Kgs of Opium. The petitioner has been in custody since 16.08.2023. it is not disputed that no recovery has been effected from the present petitioner and even the recovery effected from the co-accused Sunita does not fall within the purview of commercial quantity and she had already been granted concession of bail vide order dated 29.05.2023 passed in *CRM-M-26102 of 2023*. Challan has already been presented in Court and the completion of trial will take sufficient long time and criminal liability, if any, on the petitioner would be ascertained after conclusion of trial and no useful purpose will be served by detaining the petitioner any longer.

5. Consequently, without commenting on the merits of the case,

it is observed that no purpose would be served in 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

04.12.2023
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |