

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M-1000-2024 (O&M)
Date of Decision:- 22.04.2024

AMARJIT SINGH ALIAS PAPPA

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJIV BERRY

Present : Mr. C.S. Rana, Advocate for the petitioner.
Mr. Japjot Singh, AAG Punjab.

SANJIV BERRY, J. (ORAL)

CRM-808-2024

For the reasons stated in the application, same is allowed.
Exemption is granted.

CRM-M-1000-2024

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:-

FIR No.	Dated	Sections	Police Station
96	12.07.2023	21 and 22 of the NDPS Act	Sadar Raikot, Ludhiana

2. It is, *inter alia*, contended by learned counsel for the petitioner

that the petitioner is innocent and has been falsely implicated in the case. He submits that as per the allegations levelled by the prosecution, the petitioner was found in possession of intermediate quantity of narcotics i.e. 1 gram of heroin and 200 loose intoxicant tablets. He contends that the prosecution has not yet examined any single witness and the petitioner is languishing in jail since 12.07.2023. He thus prayed for grant of regular bail to the petitioner.

3. Learned State counsel on instructions from ASI Jagdeep Singh admits that the recovery effected from the petitioner happens to be of intermediate quantity and does not fall within the purview of commercial quantity. However, he submits that the petitioner is involved in 11 other cases, therefore, he does not deserve the concession of bail.

4. Heard.

5. After considering the respective submissions and perusing the record, it transpires that the petitioner was apprehended in the instant case while keeping in his possession 1 gram of heroin and 200 loose intoxicant tablets. He was arrested on 12.07.2023 and since then he is in custody.

6. Admittedly, the recovery effected from the petitioner does not fall within the purview of commercial quantity so as to attract the bar envisaged under Section 37 of the NDPS Act. The petitioner was arrested on 12.07.2023 and challan has already been presented in Court and out of 9 witnesses cited by the prosecution, none has been examined till date. Learned State counsel has emphasized upon registration of other cases against the petitioner to be one of the grounds for declining the concession of bail, but the same finds no merit in the light of the law laid down by the

Hon'ble Apex Court in *Prabhkar Tewari Vs. State of U.P. and another 2020(1) RCR (Criminal) 831*, in which the Hon'ble Apex Court has held that while dealing with the grant of bail, the pendency of several criminal cases against the accused cannot by itself be considered sufficient for refusal of prayer for bail.

7. Coming to the facts of the present case, the recovery being not commercial in nature; the petitioner being in custody since 12.07.22023 and none of the witnesses having been examined out of 9 witnesses cited by the prosecution, are the circumstances which go in favour of granting bail to the petitioner, as he cannot be left to incarcerate in jail for indefinite period, especially when the conclusion of trial to ascertain the criminal liability, if any, of the petitioner, will take sufficient long time. Therefore, no purpose would be served by detaining the petitioner in custody any longer.

8. In 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 his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Duty Magistrate 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.

9. 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.

10. Any observation made above shall not be construed as opinion of this Court on the merits of the case.
11. Pending miscellaneous application(s), if any, stand disposed of.

(SANJIV BERRY)

JUDGE

22.04.2024

S.Sharma(syr)

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