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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-1189-2024
Date of decision:-15.03.2024

AJAY KUMAR

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

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

Present:- Ms. Jasneet Mehra, Advocate for
Ms. Divya Gulati, Advocate, for the petitioner.
Mr. Ankit Grewal, DAG, Punjab.

SANJIV BERRY, J. (ORAL)

Learned counsel for the State has filed Custody certificate dated 14.03.2024, the same is taken on record. Copy thereof has been supplied to the counsel opposite.

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

FIR No.	Dated	Sections	Police Station
0171	17.05.2022	21(B), 27(A), 29 of NDPS Act	“A” Division Amritsar, District Amritsar

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 petitioner was allegedly apprehended on the basis of suspicion and 130 gram of heroin and ₹45,000/- drug money was recovered from him. He submits that the recovery of contraband is non-commercial in nature and there is nothing on record to suggest that ₹45,000/- recovered from petitioner can be termed as drug money. He submits that co-accused Mamta has already been granted concession of bail vide order dated 22.06.2022 passed by the Court of learned Additional Sessions Judge, Amritsar. He submits that petitioner is in custody since 17.05.2022, after conclusion of investigation, challan has been presented in Court, prosecution has cited 11 witnesses and none of them have been examined till date, the conclusion of trial will take long time, as such he prays for grant of concession of bail to the petitioner.

4. *Per contra* learned counsel for State has not disputed the factual matrix of the case but opposed the bail application by arguing that considering the nature and gravity of offence petitioner does not deserve concession of bail, however he has admitted that prosecution has cited 11 witnesses and none of them have been examined till date.

5. After considering the rival contentions and going through the record, it transpires that petitioner was apprehended on the basis of suspicion and 130 gram of heroin and amount of ₹45,000/- was recovered from him. Admittedly, the contraband recovered is non-commercial in nature. Co-accused Mamta has already been granted concession of bail vide order dated 22.06.2022 passed by the Court of learned Additional Sessions Judge, Amritsar. The petitioner is in custody since 17.05.2022, after conclusion of investigation, challan has been presented in Court and prosecution has cited

11 witnesses and none of them have been examined so far, as such the conclusion of trial will take long time to ascertain criminal liability, if any, of the petitioner.

6. Resultantly, 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.

7. 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.

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

(SANJIV BERRY)
JUDGE

15.03.2024

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- i) Whether speaking/reasoned?
- ii) Whether reportable?

Yes/No
Yes/No