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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-1848-2024 (O&M)
Date of Decision:- 06.03.2024

MANJINDER SINGH ALIAS ARSHDEEP SINGH

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJIV BERRY

Present : Mr. K.S. Sidhu, Advocate for the petitioner.

Mr. Japjot Singh, AAG Punjab.

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:-

FIR No.	Dated	Sections	Police Station
63	05.05.2022	21, 22 and 29 of the NDPS Act; (29 NDPS Act added later on vide rapat No.34 dated 08.05.2022)	Makhu, District Ferozepur

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 on the basis of alleged disclosure statement made by co-accused Thomas who was apprehended by the police and recovery of 40 grams of heroin was effected from him. He submits that the petitioner is not named in the FIR

and the evidentiary value of such disclosure statement is debatable. He further submits that no recovery has been effected from the petitioner. He contends that the petitioner was already in custody in some other case since 03.05.2022, whereas the alleged disclosure statement of co-accused Thomas was recorded on 08.05.2022. Thereafter, the petitioner was arrested on 18.07.2023 and since then he is in judicial custody. He thus prayed for grant of regular bail to the petitioner.

3. Learned State counsel has not disputed the factual matrix, however, submitted that the petitioner was specifically named by the co-accused Thomas as one of the supplier of the contraband. He has admitted that no recovery was effected from the petitioner and now the petitioner is on bail in other cases.

4. Heard.

5. After considering the respective submissions and perusing the record, it transpires that the petitioner was not named in the FIR, which was registered on the apprehension of co-accused Thomas with 40 grams of heroin. The name of the petitioner figured in the disclosure statement of said co-accused Thomas and thereafter the petitioner was arrested in this case. However, no recovery was effected from the petitioner and challan has already been presented in Court, wherein the prosecution has to examine 10 witnesses but none has yet been examined. The conclusion of trial to ascertain the criminal liability, if any, of the petitioner, will take sufficient long time and no purpose would be served by detaining the petitioner in custody any longer.

6. 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.
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.
9. Pending miscellaneous application(s), if any, stand disposed of.

(SANJIV BERRY)
JUDGE

06.03.2024
S.Sharma(syr)

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