

**244 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M No.3466 of 2024 (O&M)
Date of decision : 29.01.2024**

Pawan Kumar @ Pamma

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN*******

Present :- Ms. Harnaaz Kaur Hundal, Advocate and
Ms. Taranjit Kaur Hundal, Advocate
for the petitioner.

Mr. Iqbal Singh Mann, DAG, Punjab.

*********PANKAJ JAIN, J. (ORAL)**

1 This petition has been filed under Section 439 Cr.P.C. for grant of regular bail in case F.I.R. No.91 dated 02.10.2023 registered under Section 21 (b) of the NDPS Act, at Police Station Lohian, District Jalandhar Rural, Punjab.

2 As per the case of the prosecution as noticed by the Courts below police party intercepted one Maruti Car bearing registration No.PB-67-D-4412 and apprehended two young persons travelling in the same. It is being claimed that on seeing the police party both of them tried to run and threw polythene bags on the ground. From the polythene bag alleged to have been thrown by the petitioner on the road 100 grams of heroin is alleged to have been recovered whereas it is claimed by the prosecution that from the polythene bag thrown by the co-accused Sunil Kumar @ Jeona, 200 grams of heroin was recovered.

3 Learned counsel for the petitioner submits that it is a case of false implication as it is highly probable that after the petitioners were intercepted while travelling in the car and apprehended by the police party they could make an attempt to run. She further submits that even if the allegations are taken on its face value, it is a case of the prosecution that separate contrabands are attributable to each of the accused. Thus the contrabands cannot be clubbed together to apply the rigors of Section 37 of the NDPS Act. It is further contended that petitioner is behind bars for more than 3 months & 24 days and has no other criminal antecedents *vis-a-vis* offence punishable under NDPS Act. It has been further claimed that there is no FSL report and for that matter the challan is not being presented. It is thus being claimed that the nature of the contraband is yet to be ascertained and thus the custody of the petitioner cannot be prolonged as a punitive measure.

4 Custody certificate has been filed. The same is taken on record. As per the custody certificate, the petitioner by now has undergone more than 3 months and 24 days.

5 Learned State counsel is not in a position to dispute the aforementioned factual assertions based on record.

6 I have heard learned counsel for the parties and have gone through the records of the case.

7 Without commenting on the merits of the case and considering the incarceration suffered by the petitioner, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

However, in addition to conditions that may be imposed by the Trial

Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions :-

- (i) *The petitioner shall not mis-use the liberty granted.*
- (ii) *The petitioner shall not tamper with any evidence oral or documentary during the trial.*
- (iii) *The petitioner shall not absent himself on any date before the trial.*
- (iv) *The petitioner shall not commit any offence while on bail.*
- (v) *The petitioner shall deposit his passport, if any with the trial Court.*
- (vi) *The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number without permission of the trial Court.*
- (vii) *The petitioner shall not in any manner try to delay the trial.*

8 Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

29.01.2024
Pooja sharma-I

Whether speaking/reasoned	Yes
Whether Reportable :	No