



CRM-27969 of 2024 in/and
CRM-M-9418-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

101+202

CRM-27969 of 2024 in/and
CRM-M-9418-2024
Date of decision: 18.07.2024

Avinash Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Manjinder Singh Saini, Advocate,
for the petitioner

Mr. Satnampreet Singh, DAG, Punjab.

AMAN CHAUDHARY. J.

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For the reasons mentioned in the application, the same is allowed and the copies of recovery memo dated 11.05.2023 as well as charge-sheet dated 16.12.2023 are taken on record as Annexures P-4 and P-5, respectively.

Main case

1. Prayer in the present petition filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.0079 dated 11.05.2023, registered under Sections 21-61-85 of NDPS Act (Section 29 of NDPS Act added later on), at Police Station City Rupnagar, District Rupnagar.

2. Learned counsel contends that the petitioner is in custody for 1 year



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and 2 months. No contraband was recovered from him, while 260 grams of Heroin was recovered from the right side pocket of the lower of co-accused Charanpreet Singh, who had taken out a transparent polythene bag and threw it on the footpath, whilst travelling in the same car, which was in his ownership. Another co-accused, who was involved on the basis of disclosure statement was granted regular bail by this Court vide order dated 29.04.2024 passed in CRM-M-5389-2024. Charges were framed on 16.12.2023, however, out of 12 prosecution witnesses, 5 stood examined. The petitioner is involved in two cases, one under the NDPS Act and the other IPC, wherein he is on bail. In this regard, reliance is placed on the judgment of Hon'ble The Supreme Court in **Maulana Mohd. Amir Rashadi vs. State of U.P. and others**, 2012(2) SCC 382.

3. The custody certificate dated 17.07.2024 has been filed by learned State counsel. As per the same, the petitioner is behind bars for 1 year, 2 months and 4 days.

4. Learned State counsel opposes the bail on the ground that commercial quantity of contraband was recovered from the co-accused of the petitioner, with whom he was travelling in a car. He is however unable to controvert the submissions with regard to the stage of the case, co-accused having been granted bail and the petitioner being on bail in other cases.

5. Heard.

6. Hon'ble The Supreme Court in the case of **Maulana Mohd. Amir Rashadi** (supra) had held that, "As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be



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rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

7. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last 1 year and 2 months and 4 days; is on bail in other cases; co-accused having been granted bail; charges stand framed on 16.12.2023, however, out of 12 prosecution witnesses, only 5 have yet been examined, the trial is likely to take a considerable time, thus his further incarceration would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

8. As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to his not being required in any other case. The petitioner shall abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
- (v) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- (vi) The petitioner shall not in any manner misuse his liberty.
- (vii) The petitioner shall furnish his address and mobile



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number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.

- (viii) The petitioner shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

9. It is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

10. In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

**(AMAN CHAUDHARY)
JUDGE**

July 18, 2024
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Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No