

232 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

CRM-M-9937-2024
Date of Decision: 29.02.2024

SURINDER KUMAR ALIAS CHAWLA
....Petitioner

VERSUS

STATE OF PUNJAB
....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. P.K.S Phoolka, Advocate
for the petitioner.

Mr. Inderjeet Singh Ladher, DAG, Punjab

KARAMJIT SINGH, J.

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No. 213 dated 31.10.2023 registered for the offences punishable under Sections 21(b) of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Canal Colony, Bathinda, District Bathinda.

2. The allegations in nutshell are that police recovered 25 grams of heroin from the petitioner on 31.10.2023 and the petitioner was arrested at the spot.

3. Counsel for the petitioner submits that the petitioner is falsely implicated in the present case and even otherwise the alleged recovery comes under non-commercial quantity and rigors of Section 37 are not applicable to the said recovery. It is further submitted that after completion of investigation, police has presented the challan but it will take considerable time for the trial to conclude. Counsel for the petitioner further submits that the learned trial Court dismissed the bail application moved by the petitioner

vide order dated 12.12.2023(Annexure P-2) simply on the ground that the

petitioner is having criminal history being involved in 8 more cases under the NDPS Act. He further submits that in all the remaining cases faced by the petitioner under NDPS Act he is already enlarged on bail. So prayer is made that the petitioner be released on regular bail in the present case.

4. On the other hand, the present petition is resisted by the State counsel who on instructions from ASI Bhola Singh submits that no doubt in the present case there is recovery of non commercial quantity of contraband, but the petitioner is having criminal antecedents which are detailed in order dated 12.12.2023(Annexure P-2) passed by the learned trial Court. However, the State counsel has not disputed the fact that the petitioner is in custody for the last about 4 months and after completion of investigation, challan stands presented but charges are still to be framed.

5. Counsel for the State further submits that in the given circumstances, the trial Court rightly declined concession of regular bail to the petitioner.

6. I have considered the submissions made by the counsel for the parties.

7. The recovery involved in the present case comes under non commercial quantity and thus is not covered by the strict provisions of Section 37 of NDPS Act. After completion of investigation, police has presented the challan but trial is yet to commence and even after framing of charges it will take considerable time for the trial to conclude. All the other criminal cases under NDPS Act were registered against the petitioner prior to registration of present case. It means that at the time of arrest of petitioner in the present case he was on bail in all the other criminal cases, detailed in order dated 12.12.2023(Annexure P-2).

8. In the given circumstances, no useful purpose is going to be served by keeping the petitioner in custody for any longer period.
9. In light of the above, without expressing any opinion on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)

JUDGE

29.02.2024

Priyanka Thakur

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No