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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-15645-2024
Date of decision:-08.05.2024

BALWANT SINGH @ BHAGAT

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

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

Present:- Mr. Amandeep Singh, Advocate for the petitioner.
Mr. Japjot Singh, AAG, Punjab.

SANJIV BERRY, J. (ORAL)

Learned State counsel has filed reply by way of affidavit dated 08.05.2024 of Deputy Superintendent of Police, Sub-Division Fazilka, District Fazilka, 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
53	26.07.2023	22 & 29 of NDPS Act	Khui Khera, District Fazilka

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 not named in the FIR but was nominated on the disclosure statement made by co-accused Sarvesh Kumar from whom the recovery of contraband was effected. He submits that there is no evidentiary value of disclosure statement in the eyes of law. He submits that petitioner was arrested on 09.08.2023 and released on interim bail by the Special Court, Fazilka vide order dated 28.09.2023 but after receipt of FSL report, his interim bail was withdrawn and petitioner was taken into custody on 04.01.2024, since then he is in custody. He submits that no recovery has been effected from the petitioner and after completion of investigation challan has been presented in Court, as such petitioner is not required for further investigation. He, further prays for grant of concession of bail to the petitioner.

4. On the other hand, learned State counsel has opposed the bail petition by arguing that petitioner is also involved in FIR No.161 dated 23.12.2021, under Section 22,29,27-B NDPS Act Police Station Arniwala, District Fazilka though he is on bail in the said case. He further submits that considering the nature and gravity of the offence, petitioner does not deserve concession of bail, as such prayed for dismissal of the bail petition.

5. After considering the rival contentions and perusing the record, it transpires that petitioner was not named in the FIR but was nominated on the disclosure statement made by co-accused Sarvesh Kumar from whom the recovery of contraband was effected. Admittedly, no recovery has been effected from the petitioner. Petitioner was taken into custody on 04.01.2024, since then he is in custody. The evidentiary value of the



disclosure statement is debatable. After completion of investigation, challan has already been presented in Court, conclusion of trial to ascertain criminal liability, if any, of the petitioner will take sufficient long time and no purpose would be served by keeping the petitioner behind bars any longer.

6. Resultantly, the present petition is allowed. The petitioner is ordered to be released on regular 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. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

8. It is further made clear that in case, the petitioner is found involved in any other 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.

(SANJIV BERRY)
JUDGE

08.05.2024
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |