

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

235

CRM-M-17603-2024 (O&M)
Date of Decision:- 04.09.2024

AVTAR SINGH ALIAS BABBU

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJIV BERRY

Present : Mr. Prateek Pandit, Advocate for the petitioner.
Mr. Adesh Pal Singh, AAG Punjab.

SANJIV BERRY, J. (ORAL)

Status report dated 22.07.2024 already filed in the form of an affidavit of Deputy Superintendent of Police, Sub Division Bholath, Kapurthala is ordered to be taken on record. Copy thereof has been supplied to learned counsel for the petitioner.

- 2. Arguments heard.
- 3. The instant petition has been preferred by the petitioner under Section 439 CrPC for grant of regular bail to the petitioner in the following case :-

FIR No.	Dated	Sections	Police Station
440	18.12.2022	22 and 29 of the NDPS Act	Kotwali, District Kapurthala

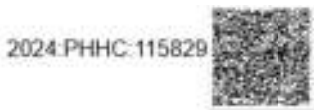
- 4. It is, *inter alia*, contended by learned counsel for the petitioner



that the petitioner is innocent and has been falsely implicated in this case. He submits that the petitioner was not named in the FIR but has been named in the alleged disclosure statement of co-accused Deputy Singh @ Bhola from whom recovery of contraband was effected. He submits that even despite the petitioner being arrested on 03.08.2023, no recovery has been effected from him. Challan has already been presented and the prosecution has cited 15 witnesses and none has been examined till date. He thus prayed for grant of concession of bail to the petitioner.

5. *Per contra*, learned State counsel while referring to the status report submitted by the State has assailed the arguments by submitting that the petitioner does not deserve the concession of bail as he is already involved in one more case under the NDPS Act. He has however admitted that the petitioner was nominated in the disclosure statement of co-accused Deputy Singh @ Bhola and no recovery of contraband has been effected from the petitioner.

6. After considering the rival contentions and perusing the record, it transpires that the instant FIR (Annexure P-1) was registered consequent upon recovery of 275 intoxicant tablets containing 37.125 grams of Etizolam from co-accused Deputy Singh @ Bhola, who during his interrogation had allegedly made a disclosure statement naming the petitioner to be the supplier of the contraband. Consequently, the petitioner was nominated as accused in the present FIR and was apprehended by the police on 03.08.2023. Admittedly, no recovery of contraband has been effected from the petitioner. Challan has already been presented in Court and none out of



the 15 witnesses cited by the prosecution has been examined till date. The conclusion of trial to ascertain the criminal liability, if any, of the petitioner, will take sufficient long time. In the circumstances, no purpose would be served by detaining the petitioner any longer.

7. Consequently, 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/Judge on Duty/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.

8. 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.

9. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

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

(SANJIV BERRY)
JUDGE

04.09.2024
S.Sharma(syr)

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