

CRM-M-23157-2024
Date of decision: 27.05.2024

....Petitioner.

Versus

...Respondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Sarabjit Singh Cheema, Advocate,
for the petitioner.

Mr. Adesh Pal Singh, AAG, Punjab.

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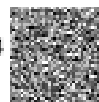
SANJIV BERRY, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR (Annexure P-1). Details of the FIR are as under: -

FIR No.	Dated	Sections	Police Station
07	18.01.2024	22, 25, 29 of the NDPS Act	Dhanaula, District Barnala

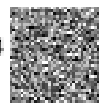
2. Reply on behalf of the State-respondent has not been filed, however, learned State counsel has produced the custody certificate dated 25.05.2024 of the present petitioner.

3. Arguments have been heard.

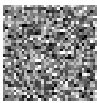


4. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner has been in custody in this case since 20.01.2024. He contends that the petitioner was not named in the FIR nor any recovery has been effected from him but has been nominated on the basis of alleged disclosure statement made by the co-accused, namely Gurjoban singh @ Joban; Jojanvinder @ Jojan and Karanjot Singh, from whom recovery of contraband was effected. He contends that the challan has already been presented against the petitioner which will take sufficient long time and no purpose would be served in detaining the petitioner in custody as he is not having any criminal antecedents. Hence, the present petition for grant of bail to the petitioner.

5. *Per contra*, learned State counsel, on instructions from ASI Balwinder Singh, present in Court along with record, has not disputed the factual matrix and has contended that the petitioner has been arrayed as an accused on the basis of disclosure statement made by the co-accused, namely Gurjoban Singh @ Joban; Jojanvinder @ Jojan and Karanjot Singh. He submitted that recovery effected from the co-accused (*supra*) happens to be commercial quantity of contraband, as such, the petitioner is not entitled to concession of bail. He, however, submitted that challan has already been presented in the Court against the petitioner but the charges have not yet been framed.



6. After considering the rival contentions and perusing the record, it is not disputed that recovery of contraband was effected upon the police apprehending the co-accused, namely Gurjoban Singh @ Joban; Jojanvinder @ Jojan and Karanjot Singh, from whom 300 grams of heroin was recovered and during the course of their interrogation they disclosed the involvement of the present petitioner and accordingly, the petitioner was arrested in this case on 20.01.2024. Despite his interrogation nothing substantial could be fetched out by the police so as to connect him with the alleged recovery; after completion of investigation challan has already been presented in the Court and it transpires that apart from the disclosure statement made by the co-accused (*supra*), nothing substantial is there to connect the petitioner with the recovery of alleged contraband. As stated above, after presentation of challan, charges have not yet been framed by the learned Trial Court, the petitioner is not having any other criminal case registered against him, the conclusion of trial to ascertain the criminal liability, if any, of the petitioner will take sufficient long time and in these circumstances, as observed, no purpose would be served in keeping the petitioner in custody any longer to face the incarceration till the conclusion of trial. Accordingly, without commenting on the merits of the case, instant petition is allowed and the petitioner is



ordered to be released on bail on his furnishing surety bonds/bail bonds to the satisfaction of Trial Court/Duty Magistrate.

7. The petitioner shall give the undertaking that he will not leave the country without prior permission of the Court; will regularly appear before the trial Court on each and every date; in case of some exigency, he will seek prior permission of the concerned Court qua his exemption to appear on the date fixed and he will not tamper with evidence of prosecution in any manner.

8. However, anything observed here in above shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

9. Petition stands allowed.

27.05.2024
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(SANJIV BERRY)
JUDGE

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