



**221 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-23975-2024

Date of Decision: May 20, 2024

Barkat Ali @ Bikka @ Bika

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Munish Puri, Advocate for the petitioner.

Mr. Sahil R. Bakshi, AAG, Punjab.

DEEPAK GUPTA, J.(Oral)

By way of present petition under Section 439 Cr.P.C., petitioner prays for his release on regular bail in a case arising out of FIR No.42 dated 25.03.2023, under Section 21 (Act No.61 of 1985) of the NDPS Act (for short 'the NDPS Act'), registered at Police Station Sujanpur, District Pathankot. This is the second petition for this purpose. The earlier petition bearing No.CRM-M-45145-2023 was dismissed as withdrawn vide order dated 18.10.2023 (Annexure P-3).

2. Learned counsel for the petitioner contends that in the meantime, co-accused Ankush alias Anku has already been allowed bail by this Court vide order dated 18.04.2024 passed in CRM-M-55688-2023 (Annexure P-4).

3. As per prosecution allegations, during patrolling, a police party apprehended two persons riding a motor-cycle on 25.03.2023. Co-accused Ankush alias Anku was driving the motorcycle; whereas petitioner – Barkat Ali @ Bikka @ Bika was the pillion rider. On search of the polythene which was being held by the petitioner, 280 grams of heroin was recovered.

4. Learned counsel for the petitioner contends that petitioner has been falsely implicated; that the petitioner is in custody for the last more than 01 year and 01 month; and that the trial may take time to conclude. Learned counsel contends that co-accused Ankush @ Anku has already been allowed bail by this Court vide order dated 18.04.2024 (Annexure P-4).

5. Notice of motion.

6. Mr. Sahil R. Bakshi, AAG, Punjab accepts notice on behalf of respondent-State.

7. Learned State counsel has opposed the bail petition submitting that the recovery was jointly effected from the petitioner and co-accused. Learned State counsel also contends that recovered quantity falls in the commercial category.

8. The custody certificate would reveal that petitioner is in custody for the last 01 year, 01 month and 21 days. Although, he is convict in two other cases pertaining to NDPS Act, but it is revealed that in case FIR No.90 of 2012, under Sections 21 & 22 of the NDPS Act, registered at Police Station Sujampur, he was sentenced to 02 months imprisonment, which he had completed in August, 2012. In case FIR No.86 of 2019, under Section 21 of the NDPS Act, registered at Police Station Sujampur, he was sentenced to fine of ₹3,000/- and rigorous imprisonment for a period of 15 days, which sentence he had completed on 04.08.2022.

9. Learned State counsel, on instructions from ASI Nirmaljit Singh, informs that out of 11 witnesses cited by the prosecution, only 01 has been examined so far. Thus, the trial is likely to take long time to conclude.

10. Having regard to all the aforesaid facts and circumstances, particularly, on he basis of parity, but without commenting anything on the merits of the case, petitioner is admitted to bail. He is ordered to be released on bail on his furnishing requisite bail bonds and surety bonds to the satisfaction of learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

Allowed.

May 20, 2024
sarita

(DEEPAK GUPTA)
JUDGE

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