

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-26655-2023
Date of decision:-13.09.2024

DALBIR SINGH @ CHACHA

... Petitioner

Versus

STATE OF HARYANA

... Respondent

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

Present:- Ms. Himani Anand, Advocate for the petitioner.
Mr. Ramender Singh Chauhan, AAG, Haryana

SANJIV BERRY, J.(ORAL)

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
89	12.02.2023	15, 18 of NDPS Act (27-A, 29 of NDPS Act added later on)	Sadar Thanesar, District Kurukshetra

2. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. She contends that the petitioner was not named in the FIR but was nominated on the alleged second disclosure given by co-accused Harwinder Singh. She



submits that the petitioner is not having any criminal antecedents and is also not having any concern with the alleged recovery. She submits that the petitioner is in custody since 16.02.2023 and no recovery has been effected from him, challan has already been presented in Court wherein prosecution has cited 16 witnesses and till date none of them have been examined, as such he prays for grant of regular bail to the petitioner.

3. Per contra, learned State counsel, referring to the reply submitted by the State has opposed the bail application by arguing that considering the huge quantity of contraband and nature of offence, petitioner does not deserve concession of bail. However, he has admitted that petitioner is not involved in any other criminal case and challan has already been filed in Court, wherein 16 witnesses have been cited by the prosecution and till date none of them have been examined.

4. After considering the rival contentions and perusing the record, it is admitted fact that the petitioner was not named in the FIR but was nominated on the second disclosure statement given by Harwinder Singh from whom recovery of 03 kgs of Opium and 1 quintal 15 kgs of Poppy straw was effected. The petitioner was arrested on 16.02.2023 and since then he is custody, after his arrest no recovery has been effected from him. As per custody certificate dated 25.07.2024 petitioner is not having any criminal antecedents, challan has already been presented in Court wherein prosecution has cited 16 witnesses and till date, none of them have been examined, therefore, the conclusion of trial to ascertain criminal liability, if any, of the petitioner will take sufficient long time.

5. In these circumstances, no purpose would be served by detaining



the petitioner any longer in custody, as a result, 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.

6. 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.

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

(SANJIV BERRY)
JUDGE

13.09.2024
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |