



CRM-M-30915-2024

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-30915-2024
Date of decision: 05.07.2024

Barjesh Kumar @ GoriPetitioner.

Versus

State of PunjabRespondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Gurpal Singh Sandhu, Advocate,
for the petitioner.

Mr. Ankit Grewal, DAG, Punjab.

.....

SANJIV BERRY, J. (ORAL)

Custody certificate dated 03.07.2024 filed by learned State
counsel in Court today is taken on record.

2. 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
0164	03.11.2023	21(b) of the NDPS Act (22-B, 27, 29 of the NDPS Act added later on and 21(b) deleted)	Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib

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 by the police. He contends that the petitioner is not named
in the FIR but has been nominated on the basis of alleged disclosure



CRM-M-30915-2024

statement of the co-accused, namely Sunil Azad Bhatti, from whom recovery of 10 grams of heroin was effected. He contends that the petitioner is in custody since 11.03.2024 and no recovery has been effected from him and even the challan has been presented in the Court. As such, he prays for grant of bail.

4. *Per contra*, learned State counsel, has not disputed the factual matrix of the case and has submitted that the petitioner was nominated on the basis of disclosure statement of the co-accused, namely Sunil Azad Bhatti, and no recovery was effected from the present petitioner.

5. Considering the rival contentions and perusing the record, it transpires that FIR (Annexure P-1) was registered on 03.11.2023 and recovery of 10 grams of heroin from the co-accused, namely Sunil Azad Bhatti, was effected and allegedly in his disclosure statement, he had nominated the present petitioner who was consequently nominated and arrested on 11.03.2024, however, no recovery has been effected from him. Challan has already been presented and the conclusion of trial in the present case which is triable by the Magistrate will take sufficient long time and in these circumstances, it is observed that no purpose would be served in detaining 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



CRM-M-30915-2024

furnishing surety bonds/bail bonds to the satisfaction of Trial Court/Duty Magistrate.

6. 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.

7. It is further made clear that in case the petitioner is found involved in any case under the 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 the law.

8. However, anything observed hereinabove 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.

10. Pending miscellaneous application, if any, also stands disposed of.

(SANJIV BERRY)
JUDGE

05.07.2024
preeti

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