



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Sr. No.218-1

CRM-M-30179-2024 (O&M)

Date of decision : 26.11.2024

MALKEET SINGH @ SABHI

..... Petitioner

VERSUS

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Raghav Soni, Advocate for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 439 of Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.48 dated 15.03.2024, under Sections 21-B, 27-A and 61 of NDPS Act, registered at Police Station Chheharta, District Amritsar.

2. The brief facts of the case are that the police party was conducting a checkpoint at Kale Morh Bypass, Amritsar, when two men on a silver Splendor motorcycle attempted to flee, leading to their apprehension. A search revealed 5 grams of heroin and ₹5,000 in drug money.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. The alleged recovery is of 5 grams of heroin from both accused and falls under the category of non-commercial quantity. The petitioner has undergone an actual custody of 08 months and 07 days and there are two other cases registered against him, however he is on bail in both cases.



4. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner on the ground that the alleged contraband was recovered from the conscious possession of the petitioner and in view of the embargo created by Section 37 of the NDPS Act, the petitioner is not entitled to the concession of regular bail. He has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone an actual custody of 08 months and 07 days and there are two other cases registered against the petitioner, however, he is on bail in both cases. He, however, submits that in view of serious allegations against the petitioner, he is not entitled to the concession of regular bail.

5. Heard the rival submissions made by learned counsel for the parties.

6. Admittedly, the recovery is of small quantity. The petitioner has undergone an actual custody of 08 months and 07 days and there are two other cases registered against the petitioner, however, he is on bail in both cases. The conclusion of the trial will take considerable time and further incarceration of the petitioner will not serve any useful purpose. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial.

7. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-



- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (iii) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (iv) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
- (v) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

8. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

9. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

10. Pending application(s), if any, also stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

26.11.2024
Kavita

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No