

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

CRM-M-30832-2024

Date of Decision : 02.08.2024

JOHN MASIH @ JOHNY

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Ms Gurmeet Kaur, Advocate,
for the petitioner.

Mr.Pardeep Bajaj, DAG, Punjab.

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition, the petitioner craves for indulgence of this Court for his being enlarged on regular bail, in case FIR No.88 dated 26.11.2023, under Section 21, 27(a) and 61 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the 'N.D.P.S. Act'), registered at Police Station Tibber, District Gurdaspur.

2. In asking for the relief (*supra*), learned counsel for the petitioner, submits that no recovery has been effected from the present petitioner, and he has been implicated in the instant FIR, with the aid of Section 27(a) of the NDPS Act, 1985.

3. She further submitted that the recovery so effected in the instant FIR, is from the co-accused, which is of 6 grams of heroin, alongwith Rs.18,000/-drug money, which is just one gram over and above the

smaller quantity, as prescribed in the Schedule attached with the NDPS Act, 1985.

4. She further submits that though the petitioner is involved in five other cases under the provisions of the NDPS Act, 1985, and out of these, in one case he has earned acquittal, and in one case though he has been convicted but he has been sentenced to the period already undergone, and in remain three cases he is facing trial.

5. She further submits that the petitioner has suffered incarceration of more than 8 months as on today, in the instant case.

6. On the other hand, learned State counsel vociferously opposed the asked for relief (*supra*), and has filed the custody certificate *qua* the petitioner, which reveals that the petitioner has suffered incarceration of 8 months and 3 days as on today, and he is stated to be involved in five other criminal cases.

7. He further informs this Court, on instructions imparted to him by ASI Ajay Rajan, that the investigation in the instant case has already been completed and final report has been filed on 20.03.2024 and thereupon charges have also been framed on 20.04.2024, and out of the total 9 prosecution witnesses, only one witnesses has been examined so far.

8. This Court has heard the learned counsel for both the parties concerned, and has gone through the entire case file.

9. Be that as it may, considering the fact that no recovery was effected from the present petitioner, and the recovery which has been effected from the co-accused is marginally above the small quantity (non-

commercial quantity), and the petitioner has been arrayed as an accused on the disclosure statement of a co-accused, and the petitioner has suffered incarceration of 8 months and 3 days as on today, coupled with the fact that the trial is at initial stage as only one witness out of the total 9 witnesses, has been examined, therefore, this Court deems it fit and appropriate to grant the concession of regular bail to the petitioner, during the pendency of trial. Therefore, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**. The petitioner is ordered to be released on bail, on furnishing of his respective bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

10. However, it is clarified that if in future, the petitioner is found indulging in commission of similar offences, as are involved herein, the respondent-State shall be at liberty to make an appropriate application seeking cancellation of regular bail, as granted by this Court. Moreover, anything observed here-in-above shall have no effect on the merits of the trial and is meant for deciding the present petition only.

August 02, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No