

207

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 48333 of 2023
Date of Decision:-20.01.2024

PAWAN KUMAR

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

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

Present:- Mr. S.S.Grewal, Advocate
for the petitioner.

Mr. Harpreet Singh, Addl. AG. Punjab.

.....

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 to the petitioner in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
70	12.04.2023	22 (C), 29 of NDPS Act	Lambi, District Mukatsar Sahib

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. He submits that petitioner was not named in the FIR but was nominated on the basis of the disclosure statement made by the co-accused Neeta Kumar from whom the contraband was recovered. He submits that no recovery has been

effected from the petitioner and no other case is pending against the petitioner under the NDPS Act. The petitioner is in custody since 19.07.2023, challan has been presented in court and out of 19 witnesses cited by the prosecution none of the witness has been examined till date as such he prays for grant of concession of bail to the petitioner.

3. On the other hand learned State counsel has opposed the bail application by arguing that considering the nature and gravity of the offence he is not entitled to concession of bail. However, he has admitted that the petitioner was not named in the FIR but was nominated on the basis of the disclosure statement made by the co-accused Neeta Kumar and out of 19 witnesses cited by the prosecution none of the witness has been examined till date.

4. After considering the respective submissions and perusing the record, admittedly petitioner was nominated on the basis of disclosure statement made by the co-accused Neeta Kumar and no recovery has been effected from him and no other case under NDPS Act is pending against the petitioner. The petitioner is in custody since 19.07.2023, Challan has been presented in Court and charges have been framed and out of 19 witnesses cited by the prosecution none of the witnesses has been examined till date. The conclusion of trial will take sufficient long time to ascertain the criminal liability, if any of the petitioner which will take sufficient long time and no useful purpose would be served by keeping the petitioner behind bars any longer.

5. Resultantly, without commenting on the merits of the case, it

is observed that no purpose would be served in keeping petitioner behind bars. Therefore, the present petition is allowed. The petitioner is ordered to be released on 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. The petition stands allowed.
7. 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.
8. Anything contained here in above shall not be construed to be an expression of opinion on the merits of the case.

(SANJIV BERRY)

JUDGE

20.01.2024

Gyan	i)	Whether speaking/reasoned?	Yes/No
	ii)	Whether reportable?	Yes/No