

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CRM-M-49106-2023  
Date of decision: 14.02.2024

Saral Kumar @ Shanky....Petitioner.

Versus

State of Haryana....Respondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Ms. Nancy Vashisth, Advocate,  
for Mr. Namit Khurana, Advocate,  
for the petitioner.

Mr. Vishal Malik, DAG, Haryana.

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SANJIV BERRY, J. (ORAL)

1. Custody certificate dated 13.02.2024 filed by learned State counsel is taken on record. Copy supplied to learned counsel for the petitioner as well.
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    |
|---------|------------|----------------------|-------------------|
| 596     | 20.11.2021 | 21-B of the NDPS Act | Sadar Yamunanagar |

3. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner after having nominated and arrested in the

aforesaid FIR was granted the concession of bail vide order dated 24.01.2022 (Annexure P-2), passed by learned Additional Sessions Judge-cum-Judge, Special Court, Yamuna Nagar at Jagadhri and thereafter the petitioner had been regularly appearing in the Court on account of having wrongly noted the date as 02.02.2023 instead of 02.12.2022, leading to issuance of non-bailable warrants of arrest and cancellation of bail. She contends that the petitioner was arrested in another case on 28.03.2023 and since then, he is in custody.

4. *Per contra*, learned State counsel has not disputed the factual matrix of the case.

5. Considering the respective arguments and perusing the record, it transpires that on account of keeping in possession of non commercial quantity of narcotics, the petitioner was granted the concession of anticipatory bail vide order dated 24.01.2022 (*supra*) and during the course of trial, he absented from the proceedings, leading to learned Trial Court cancelling the bail and issuance of non bailable warrants of arrest. The absence of the petitioner on the given date is pleaded to be unintentional, having wrongly noted the date. It is not disputed that the petitioner was arrested on 28.03.2023 in another case and is in custody since then. The criminal liability, if any, of the petitioner can only be ascertained after the conclusion of trial which may take sufficient long time and in these circumstances, as observed, no purpose would be served in keeping 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 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 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. 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.

**14.02.2024**  
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**(SANJIV BERRY)**  
**JUDGE**

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