

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

240

CRM-M-51294-2023 (O&M)
Date of Decision:- 20.02.2024

MUKHTIAR SINGH @ MUKHTIAR @ KISHAN

...Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJIV BERRY

Present : Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Pranshul Dhull, Advocate for the petitioner.

Mr. Ankit Grewal, DAG Punjab.

SANJIV BERRY, J. (ORAL)

1. Status report dated 20.02.2024 filed in the form of an affidavit of Deputy Superintendent of Police, Police District Khanna, District Ludhiana along with custody certificate dated 19.02.2024 are taken on record. Copies thereof have been supplied to learned counsel for the petitioner.
2. Heard.
3. 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:-

FIR No.	Dated	Sections	Police Station
82	07.06.2022	15/18/25 of the NDPS Act; (29 of the NDPS Act added later on)	Khanna City-2, District Khana Ludhiana

4. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in the case. He submits that the petitioner has no concern whatsoever with the alleged recovery but has been nominated on the basis of disclosure statement made by co-accused Balbir Singh, who was arrested at the spot by the Police along with Tirath Singh and recovery of contraband i.e. 20 kg of poppy-husk and 3 kg of opium was effected from them. He submits that the evidentiary value of disclosure statement made by co-accused is debatable. He further submits that the petitioner is languishing in custody since 10.06.2022 and conclusion of trial will take sufficient long time. He thus prayed for grant of regular bail to the petitioner.

5. On the other hand, learned State counsel has opposed the bail petition by arguing that commercial quantity of narcotics has been recovered from co-accused and as such, the petitioner is not entitled for the concession of bail. He has, however, admitted that the petitioner was not named in the FIR and had been nominated on the basis of disclosure statement made by co-accused Balbir Singh and no recovery of contraband has been effected from the petitioner in this case.

6. Heard.

7. After considering the rival contentions and perusing the record, it transpires that the Police had apprehended co-accused Balbir Singh and Tirath Singh on 07.06.2022 and from their possession 20 kg of poppy-husk and 3 kg of opium was recovered. Subsequently, during the course of interrogation, co-accused Balbir Singh made a disclosure statement naming

the petitioner in the case. Accordingly, the petitioner was arrested on 10.06.2022. Admittedly, no recovery of contraband was effected from the petitioner. Challan against the petitioner has already been presented in Court and out of 16 witnesses cited by the prosecution none has been examined till date.

8. Considering the above facts and circumstances of the case and the fact that no recovery has been effected from the petitioner, after being nominated on the basis of disclosure statement made by co-accused Balbir Singh; none out of 16 witnesses cited by the prosecution have yet been examined, the conclusion of trial to ascertain the criminal liability, if any, of the petitioner, will take sufficient long time. In theses circumstances, it is observed that no purpose would be served by detaining the petitioner in custody any longer.

9. In these circumstances, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Duty Magistrate 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.

10. 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.

11. Any observation made above shall not be construed as opinion of this Court on the merits of the case.
12. Pending miscellaneous application(s), if any, stand disposed of.

(SANJIV BERRY)

JUDGE

20.02.2024

S.Sharma(syr)

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