



273

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M- 49165-2024
Date of decision:-27.11.2024

SUNNY KUMAR ALIAS SUNNY
... Petitioner

Versus

STATE OF PUNJAB
... Respondent

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

Present:- Mr. Mukesh Kumar, Advocate for the petitioner.

Mr.Ankit Grewal, DAG, Punjab.

SANJIV BERRY, J.(ORAL)

Mr. Mukesh Kumar Swami, Advocate, has put in appearance on behalf of the petitioner and filed his Vakalatnam, the same is taken on record.

2. Learned State counsel has filed reply by way of affidavit dated 21.11.2024, of Deputy Superintendent of Police, Sub-Division, Abohar, District Fazilka, alongwith custody certificate dated 26.11.2024 the same are taken on record. Copies thereof, have been supplied to the counsel opposite.

3. The instant petition has been preferred by the petitioner under Section 483 of Bharatiya Nagarik, Suraksha Sanhita, 2023, for grant of regular bail in the following case:-

FIR No.	Dated	Sections	Police Station
88	24.08.2024	21 and 29 of NDPS, Act, 1985	City-2 Abohar, District Fazilka.

4. Arguments heard.

5. 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 contends that petitioner was not named in the FIR but was nominated on the disclosure statement of Koshal @ Lalla from whom recovery of 45 gram of heroin was effected. He contends that petitioner has no concern with the said accused or transactions. He contends that petitioner was arrested on 24.08.2024 but nothing incriminating was recovered from him and is having on other criminal case registered against him. He submits that after completion of investigation, challan has already been presented in court, as such petitioner is not required for further investigation. Hence, he prays for grant of bail to the petitioner.

6. *Per contra*, learned State counsel referring to the reply submitted by the State has opposed the bail application by arguing that the petitioner alongwith co-accused Koshal were indulging in selling of the narcotics, as such, considering the nature and gravity of offence he is not entitled to concession of bail. However, he has not disputed the fact that after completion of investigation, challan has been presented in Court and the petitioner is not having any other criminal case registered against him.

7. After considering the rival contentions and perusing the record, it transpires that as per the case of the prosecution during patrolling on 24.08.2024 a person was seen coming on foot from Maharan Partap chowk to Alamgarh chowk, on seeing police party he got nervous and threw a transparent polythene envelope from the left pocket of his lower and tried to run. Police had apprehended him and he disclosed his name as Koshal @ Lalla and on checking 45 gram of heroin was recovered. He had named the



present petitioner as supplier and seller of the narcotics. Consequently petitioner was arrested on 24.08.2024 and no recovery of any type of contraband as effected from him and he is not having any criminal antecedents. After completion of investigation, challan has been presented in Court, as such he is not required for further investigation. The conclusion of trial to ascertain criminal liability, if any, of the petitioner in the present case will take sufficient long time.

8. In these circumstances, without commenting on the merits of the case, it is observed that no purpose would be served by 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.

9. 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

10. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

27.11.2024
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |