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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-62239 of 2023
Date of decision:-07.03.2024

SAMPSON UCHENNA FRANCIS

... Petitioner

Versus

STATE OF HARYANA

... Respondent

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

Present:- Ms. Mamta Wadhwa, Advocate for the petitioner.
Mr. Vishal Malik, DAG, Haryana.

SANJIV BERRY, J. (ORAL)

Custody certificate dated 06.03.2024 filed by learned State counsel is taken on record, copy thereof has been supplied to the counsel opposite.

2. The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
154	01.09.2022	21-C, 29 of NDPS Act and 13 and 14 of Foreigners Act, 1946	City Taurau, Nuh, District Mewat, Nuh

3. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. She submits that the petitioner was not named in the FIR but was nominated

on the basis of disclosure statements of co-accused Samun Khan @ Salim and Sahjad @ Sannu and on the basis thereof, petitioner was arrested on 12.12.2022. She submits that the alleged recovery of 193 grams of heroin from the petitioner does not fall within the purview of commercial quantity and out of 36 witnesses cited by the prosecution none of them have been examined till date, as such she prays for grant of concession of bail to the petitioner.

4. *Per contra*, learned State counsel on the basis of reply dated 24.01.2024 filed by the State has not disputed the factual matrix of the case but states that considering the nature and gravity of offence the petitioner does not deserve concession of bail and prays for dismissal of the bail petition.

5. After considering the rival contentions and going through the record, it transpires that admittedly, the petitioner was not named in the FIR, infact the police apprehended a juvenile and recovered contraband from him and on the basis of the same the instant FIR was registered and subsequently during investigation he suffered disclosure statement naming accused Samun Khan @ Salim and Sahjad @ Sannu who were also apprehended by the police. Co-accused Samun Khan @ Salim and Sahjad @ Sannu in their respective disclosure statements named the present petitioner to be the supplier and accordingly raid was conducted after his being nominated as accused leading to recovery of 193 grams of heroin, arrested on 12.12.2022 and since then he is in custody. Admittedly the contraband does not fall within the purview of commercial quantity. Co-accused Samun Khan @

Salim has already granted concession of bail vide order dated 20.02.2024 passed in CRM-M-60781 of 2023. The prosecution has cited 36 witnesses in the challan presented against the accused out of which none of them have been examined till date. In this manner, conclusion of trial will take sufficient long time to ascertain criminal liability, if any, of the petitioner and no purpose would be served by keeping petitioner behind bars any longer.

6. Resultantly, 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.

7. It is further made clear that in case the petitioner is found involved in any case under the 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. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

07.03.2024

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