

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-60781-2023
Date of decision: 20.02.2024

Samoon Khan @ SalimPetitioner.

Versus

State of HaryanaRespondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Rajesh Lamba, Advocate,
for the petitioner.

Mr. Vishal Malik, DAG, Haryana.

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SANJIV BERRY, J. (ORAL)

1. Status report dated 06.01.2024, filed in the form of affidavit of Deputy Superintendent of Police, Traffic Nuh, is taken on record. Copy thereof has been supplied to learned counsel for the petitioner.
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
154	01.09.2022	21(C) and 29 of NDPS Act	City Tauru, District 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 on the basis of alleged disclosure statement of the

co-accused. He further contends that petitioner has no concern whatsoever with the alleged recovery of contraband and he is in custody since 11.12.2022. He further contends that the petitioner is not involved in other criminal case and as such, prays for grant of regular bail.

4. *Per contra*, learned State counsel opposed the bail petition and submits that recovery of commercial quantity of contraband was effected from the co-accused in the present FIR and as such, he is not entitled for concession of regular bail. However, he admitted that the petitioner is not involved in any other case nor any recovery of contraband was effected from him.

5. After considering the rival contentions and perusing the record thereof, it is observed that the case of the prosecution is that on 01.09.2022, on the basis of secret information, a raid was conducted and one person as juvenile, hereinafter mentioned as XXXX, was apprehended and recovery of 417 grams of heroin was effected from him and during his disclosure statement, he named the present petitioner, namely *Samoon Khan @ Salim* and one *Sehjad @ Sannu*. Later, the petitioner was arrested on 11.12.2022. Admittedly, no recovery of contraband was effected from petitioner and since then he is in custody. After completion of investigation, challan has already been presented in the Court and out of 23 witnesses cited by the prosecution none has been examined till date. In the circumstances of the case, when no recovery has been effected from the petitioner, who

was named on the basis of disclosure statement and the petitioner is having no criminal antecedents, he is in custody since 11.12.2022 and till date, the prosecution has not examined even a single witness out of 23 prosecution witnesses as cited above, I find no purpose would be served in keeping the petitioner in custody any longer to face the incarceration till the conclusion of trial, 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. 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.

8. Petition stands allowed.

20.02.2024
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(SANJIV BERRY)
JUDGE

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