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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-63270-2023
Date of decision: 03.09.2024

SIKANDAR ALIAS SIKANDER

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. J.S. Salana, Advocate for
Mr. R.S. Waraich, Advocate
for the petitioner.

Mr. Sahil R. Bakshi, AAG, Punjab.

KULDEEP TIWARI. J.(Oral)

1. Through the instant petition, the petitioner craves for indulgence of this Court for his being enlarged on regular bail, in case FIR No.59 dated 23.04.2023, under Section 21 of the NDPS Act, 1985, and under Sections 307, 332, 353 and 186 of IPC, registered at Police Station Doraha, Police District Khanna, District Ludhiana.

2. The allegations as levelled against the present petitioner are that, on a secret information, Police party have laid a naka, whereupon, the petitioner who was driving the motorcycle, along with one co-accused Money, who was the pillion rider, on seeing the Police party, they tried to escape from the spot, by speeding away the said motorcycle. When ASI Sukhdev Singh, came forward to stop them, the motorcycle which was being driven by the petitioner, dashed the same into the Police official, and caused serious injuries to him. ASI Sukhdev Singh suffered head injury, which was subsequently declared dangerous to life. On search being



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conducted, 70 grams of heroin was recovered, which was lying under the seat of the said motorcycle.

3. The learned counsel for the petitioner, in his asking for the hereinabove extracted relief, has made the following submissions:-

(i) Petitioner has suffered incarceration of more than 01 year, and 04 months, as on today;

(ii) The recovered contraband i.e. 70 grams of heroin falls within the ambit of non-commercial quantity;

(iii) Petitioner is not involved in any other NDPS case, though he is stated to be involved in 06 other cases, out of which, in 03 cases, he is on bail, and in 02 cases, he has undergone the entire sentence, and in 01 case, he has earned acquittal;

(iv) There was no intention on the part of the petitioner, to deliberately cause injuries to ASI Sukhdev Singh, which were subsequently declared as dangerous to life.

(v). Co-accused of the petitioner i.e. Money, has already been granted the relief of regular bail by the Co-ordinate Bench of this Court in CRM-M-35932-2023, vide order dated 29.11.2023.

4. Per contra, the learned State counsel, has opposed the grant of regular bail to the present petitioner, on the ground that, it is the act of the petitioner, which led ASI Sukhdev Singh to suffer serious injuries, which was subsequently declared as dangerous to life. Learned State counsel has placed on record the custody certificate *qua* the petitioner, as issued by the Superintendent of Central Jail Ludhiana. The same is taken on record. A perusal of the custody certificate reveals



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that the petitioner has suffered incarceration of 01 year, 04 months and 08 days, as on today. A perusal of the custody certificate further reveals that though the petitioner is stated to be involved in 06 other cases, but in 03 cases, he is on bail, and in 02 cases, he has undergone the entire sentence, and in 01 case, he has earned acquittal. Learned State counsel on instructions, imparted to him by the official respondent, submits that after conclusion of the investigation, the final report under Section 173 Cr.P.C., had already been filed on 15.07.2023. Learned State counsel further submits that out of the total 14 prosecution witnesses cited in the final report, only one witness has been examined till date, that too his examination-in-chief was recorded, whereas, the learned Public Prosecutor has given up 05 prosecution witnesses.

5. This Court has heard the learned counsel for the parties concerned, and has gone through the instant petition, and is of the considered opinion that the instant petition is amenable for being allowed.

6. The reason for forming the above inference emanates from the factum that:- (i) The recovery which was effected from the present petitioner falls within the ambit of non-commercial quantity, (ii) The petitioner has suffered incarceration of 01 year, 04 months and 08 days, as on today, (iii) Petitioner is on co-pedestal as that of his co-accused, who has already been granted the relief of regular bail by the Co-ordinate Bench of this Court, vide order dated 29.11.2023. (iv) The final report under Section 173 Cr.P.C was filed on 15.07.2023, (v) No fruitful purpose would be served by keeping the petitioner behind the bars, (vi) Trial is not likely to conclude anytime soon.

7. Considering the hereinabove made discussion, this Court deems it fit



and appropriate to grant the concession of regular bail to the petitioner. Therefore, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**. The petitioner is ordered to be released on bail on furnishing of bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

8. However, anything observed here-in-above shall have no effect on the merits of the trial, and is only meant for deciding the present petition.

9. However, it is clarified that if in future, the petitioner is found indulging in commission of similar offences, as are involved herein, the respondent-State shall be at liberty to make an appropriate application seeking cancellation of regular bail, as granted by this Court.

03.09.2024
amandeep

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No