

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-62805-2023
Date of decision: 22.02.2024

Pawan Kumar.....Petitioner.

Versus

State of Haryana....Respondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Bhavdeep Singh Mamli, Advocate,
for the petitioner.

Mr. Vishal Malik, DAG, Haryana.
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SANJIV BERRY, J. (ORAL)

1. 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
350	26.06.2023	21(b) and 27-A of the NDPS Act	Sadar Fatehabad

2. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner has no concern whatsoever with the alleged transaction and is not named in the FIR. He contends that the petitioner has been nominated by the accused, namely Rahul, who was apprehended by the police and recovery of 19.15 grams of heroin was effected from him falling within the purview of non commercial

quantity. He further contends that no recovery has been effected from the petitioner and is in custody since 18.10.2023 since then he is custody. He further contends that the prosecution has cited as many as 18 witnesses and even the charges have not been framed by the learned Trial Court which will take sufficient long time. Hence, he prays for grant of bail.

3. On the other hand, learned State counsel, submits that the petitioner does not deserve the concession of bail keeping in view the other 04 cases pending against him. He, however, admitted that no recovery was effected from the petitioner in this case and the prosecution has cited 18 witnesses in this case.

4. After considering the rival contentions and perusing the record, it is not disputed that although challan has been presented in the Trial Court but the charges have not been framed and the prosecution has cited as many as 18 witnesses. The petitioner has been nominated on the basis of disclosure statement of the co-accused, namely Rahul, from whom, non commercial quantity of contraband has been recovered and after his arrest, no recovery has been effected from him. The criminal liability, if any, of the petitioner can only be ascertained after the conclusion of trial which may take sufficient long time and in these circumstances, as observed, no purpose would be served in keeping the petitioner in custody any longer to face the incarceration till the conclusion of trial. Accordingly, 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.

5. 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.

6. 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 the law.

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.

22.02.2024
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(SANJIV BERRY)
JUDGE

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