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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-23837-2024 (O&M)
Date of Decision:- 02.04.2025

SHAMSHER SINGH @ SHERA

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJIV BERRY

Present : Mr. Rishu Mahajan, Advocate for the petitioner.

Mr. Ankit Grewal, DAG Punjab.

SANJIV BERRY, J. (ORAL)

1. Mr. Rishu Mahajan, Advocate has put in appearance on behalf of the petitioner and filed his power of attorney with no objection from the previous counsel. Same is taken on record.
2. The instant petition has been preferred by the petitioner under Section 439 CrPC for grant of regular bail to the petitioner in the following case :-

FIR No.	Dated	Sections	Police Station
181	27.09.2023	21 NDPS Act (23, 25 and 29 NDPS Act added later on vide Rapat No.27)	Gharinda, Amritsar Rural

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. He



contends that the petitioner was not named in the FIR and his name surfaced in the disclosure statement of co-accused Malkeet Singh, from whom the recovery of contraband was effected. He further contends that consequent upon the arrest of the petitioner, no recovery has been effected from him and after the completion of investigation, challan has been presented in Court and the conclusion of trial is likely to take considerable long time. Thus, prays for grant of concession of bail to the petitioner.

4. *Per contra*, learned State counsel while referring to the short reply filed by the State has opposed the petition on the ground that the petitioner is actively involved in the crime and he was present at the spot but managed to run away. He further submits that the petitioner has been nominated on the basis of disclosure statement suffered by co-accused Malkeet Singh from whom commercial quantity of contraband was recovered. Thus, prays for dismissal of the petition.

5. Heard learned counsel for the parties and perused the record.

6. After considering the rival contentions and perusing the record, it transpires that on 26.09.2023, co-accused Malkeet Singh was apprehended by the BSF officials from the fields near the border fencing and from his conscious possession 2 packets of heroin weighing 350 grams each, i.e. 700 grams heroin, was recovered. Upon his disclosure, another 370 grams of heroin was also got recovered from the fields. The name of the petitioner surfaced in the disclosure statement of the said co-accused and accordingly he was arrested on 23.10.2023. However, admittedly no recovery of any contraband was effected from his possession after his arrest. Challan has



already been presented in Court and the prosecution has not examined even a single witness out of 15 witnesses cited by it. The criminal liability, if any, of the petitioner, could only be determined after the conclusion of trial, which may take sufficient long time. In the circumstances, no purpose would be served by detaining the petitioner any longer.

7. Consequently, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Judge on Duty/Duty Magistrate 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.

8. 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.

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

(SANJIV BERRY)
JUDGE

02.04.2025
S.Sharma(syr)

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