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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-31226-2024(O&M)

Date of decision:-22.05.2025

VAIHAV SAINI @ VAIBHAV SAINI

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

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

Present:- Mr. J.S. Johal, Advocate for the petitioner.

Mr. K.D.Sachdeva, DAG, Punjab.

SANJIV BERRY, J.(ORAL)

CRM-18910-2025

1. The instant application has been preferred under Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 for placing on record correct memo of parties as well as disclosure statement dated 20.01.2023 as Annexure P-4.

2. Heard.

3. The application is allowed, subject to all just exceptions.
Registry to do the needful.

Main case

The instant second 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:-



FIR No.	Dated	Sections	Police Station
18	18.01.2023	21 (b) of NDPS Act (29 and 21 (C) of the NDPS Act added later on)	Special Task Force, District STF Wing

2. Arguments heard.
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 petitioner was not named in the FIR but has been nominated on the disclosure statement of co-accused Deepak Kashyap from whom recovery of 150 gram of heroin was effected. He contends that petitioner was arrested on 08.07.2023, and alleged recovery of 260 grams of heroin was effected on his disclosure statement. He contends that the alleged recovery of 260 gram of heroin is marginally above the non commercial quantity. He contends that after completion of investigation, challan has already been presented in Court, wherein prosecution has cited 18 witnesses and till date only 4 of them have been examined. Hence prayed for grant of regular bail to the petitioner.
4. *Per contra*, learned State counsel referring to the reply submitted by the State, has assailed these arguments by submitting that petitioner was nominated on the disclosure statement of co-accused Deepak Kashyap and after his arrest, alleged recovery of 260 gram of heroin was recovered from him on his own disclosure statement, hence prayed for dismissal of the bail petition. However, he has not disputed the fact that challan has already been presented in Court, wherein prosecution has cited 18 witnesses and till date only 4 of them have been examined.



5. After considering the rival contentions and perusing the record, it is observed that as per the version of the prosecution, during patrolling, police apprehended co-accused Deepak Kashyap and Anil Kumar and from them recovery of 150 grams of heroin was effected and in the disclosure statement of co-accused Deepak Kashyap present petitioner was nominated as supplier of the contraband. Consequently, the present petitioner was arrested on 08.07.2023 and on his disclosure statement recovery of 260 gram of heroin was effected from him. After completion of investigation, challan has already been presented in Court wherein prosecution has cited 18 witnesses and till date only 4 of them have been examined. Admittedly, the recovery effected from the petitioner is marginally higher than the non commercial quantity. The conclusion of trial to ascertain criminal liability, if any, of the petitioner, will take sufficient long time. Therefore, considering the slow pace with which the trial is proceeding, as well as the fact that the recovered contraband allegedly effected from the petitioner is marginally higher than the non commercial quantity and this case is deemed fit where rigor of Section 37 of the NDPS Act could be diluted, as such, no purpose would be served by detaining the petitioner any longer in custody.

6. In these circumstances, without commenting on the merits of the case, 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 again 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.

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

9. Pending application(s) if any shall also stand disposed of.

(SANJIV BERRY)
JUDGE

22.05.2025

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