

211

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-45838-2023
Date of decision:-07.03.2025

AVTAR SINGH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

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

Present:- Mr. Subhash Kumar, Advocate for the petitioner.

Mr. Ankit Grewal, DAG, Punjab.

SANJIV BERRY, J.(ORAL)

The instant petition has been preferred by the petitioner under Section 439 of the Criminal Procedure Code, for grant of regular bail in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
264	15.08.2020	21 © of NDPS Act and Section 25 of Arms Act	Sultanpur Lodhi, District Kapurthala

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 and he has no concern with the alleged recovery. He contends that recovery of 270 grams of heroin was allegedly effected from co-accused Sukhwinder Singh on the spot. The petitioner was neither present at the spot nor had any concern with the said recovery but the police has falsely implicated him by



showing him to had ran away from the spot. He submits that in the present case the police party duly armed with weapons, it is improbable for the petitioner to have ran away from the spot. He contends that the petitioner is in custody since 17.08.2020 and no recovery was effected from the petitioner consequent upon his arrest. After completion of investigation challan has already been presented in Court, hence prayed for grant of concession of regular bail to the petitioner.

4. *Per contra*, learned State counsel referring to the reply submitted by the State, has opposed the bail petition by arguing that petitioner alongwith co-accused were found keeping in their conscious possession 270 gram of heroin, as such the petitioner does not deserve concession of bail.

5. After considering the rival contentions and perusing the record, it is observed that as per the case of the prosecution, the FIR was registered on the allegations that on 15.08.2020 the police party headed by ASI Gurmail Singh signaled the motorcycle to stop and the motorcyclists while trying to turn back was apprehended while two pillion riders escaped from the spot including the petitioner. It is alleged that from the conscious possession of the motorcyclist apprehended namely Sukhwinder Singh 270 grams of heroin was recovered, subsequently the petitioner was arrested on 17.08.2020, since then he is in custody. Admittedly no recovery consequent upon the arrest of the petitioner has been effected from him. After completion of investigation, challan has already been presented in court and the conclusion thereof, will take sufficient long time to conclude.



6. Keeping in view the fact that no recovery consequent upon the arrest of the petitioner has been effected in the case and it is debatable, if the petitioner was present at the time of alleged recovery from the co-accused Sukhwinder Singh, no purpose would be served by detaining the petitioner in custody any longer.

7. Resultantly, 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.

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.

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

(SANJIV BERRY)
JUDGE

07.03.2025

Gyan

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