



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-37389-2024
Date of decision: 05.03.2025

Vishal @ Deepu ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. J.S. Sandhu, Advocate for the petitioner.

Mr. Inderjeet Singh Ladher, DAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in case having FIR No.293 dated 26.07.2023, under Section 21 of NDPS Act and Section 29 of NDPS Act and Section 181, 182, 192 of Motor Vehicle Act, added later on, registered at Police Station City Ferozepur, District Ferozepur.

2. The allegations in nutshell are that police recovered 500 grams of heroin and drug money worth Rs.2 lac from possession of the petitioner on 26.07.2023. Thereafter, one another boy (juvenile) was also nominated and arrested in the present case on the basis of disclosure statement suffered by the present petitioner.

3. The counsel appearing on behalf of the petitioner inter alia contends that the petitioner is falsely implicated in the present case and is incarcerated for the last more than 1 year and 7 months and is not involved in any other criminal case and that it will take considerable time for the trial to conclude. That in the given circumstances, no useful purpose is going to be served by keeping the petitioner in custody for any longer period. In support of his contentions, the counsel for the petitioner has referred to



decision of Hon'ble Supreme Court dated 04.08.2022 in SLP (Crl.) No.4173/2022 titled *Shariful Islam @ Sarif Vs. The State of West Bengal* wherein the accused was granted bail in a case of recovery of commercial quantity of contraband, considering incarceration for over 1 year and 6 months and there being no likelihood of completion of trial in the near future.

4. The present petition is resisted by the State counsel who submits that the recovery effected from the petitioner being of commercial nature is covered under rigors of Section 37 NDPS Act. It is further submitted that trial is going on and prosecution has already examined 5 witnesses out of total 15 witnesses. However, the State counsel has not disputed the fact that the petitioner is in custody for the last more than 1 year and 7 months and is having no criminal history.

5. I have considered the submissions made by counsel for the parties.

6. From the perusal of judgment dated 15.07.2024 passed by the Juvenile Justice Board headed by Principal Magistrate, Ferozepur, it is evident that co-accused a juvenile who was nominated as accused on the basis of disclosure statement suffered by present petitioner is already acquitted by the Court concerned.

7. Undoubtedly, the recovery effected from the petitioner comes under commercial quantity and thus, attracts provisions of Section 37 NDPS Act. At the same time, from the perusal of the custody certificate, it is evident that petitioner is behind bars for the last more than 1 year and 7 months and is not having any criminal antecedents. It is also evident that it will take time for the trial to conclude and the petitioner is not responsible for any such delay in trial. In the given circumstances, further incarceration of the petitioner would be violative of his right enshrined under Article 21 of the Constitution of India and the rigors of Section 37 NDPS Act can be diluted bearing in mind the right to a speedy trial.

8. Having regard to the aforesaid facts and circumstances of the case, the detention of the petitioner for any longer period is not going to serve any useful purpose.

9. In view of the above, without commenting on the merits of the



case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

10. However, if in future the petitioner was found to be involved in any other case of similar nature, the prosecution shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

05.03.2025

Yogesh

**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No