

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

**CRM-M-4074-2022
Decided on : 11.07.2022**

Rakesh Kumar

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. D.S. Virk, Advocate
for the petitioner.

Mr. Rohit Arya, D.A.G., Haryana.

MANJARI NEHRU KAUL, J. (Oral)

Petitioner is seeking concession of regular bail in case FIR No.169 dated 21.05.2020 registered under Sections 22/61 of the Narcotic Drugs and Psychotropic Substances Act at Police Station Sadar Dabwali, District Sirsa.

This is the petitioner's 2nd petition for grant of bail under Section 439 Cr.P.C. The petitioner was earlier granted interim bail awaiting the receipt of FSL and on receipt, he surrendered before the Court below.

On a query being put to the learned counsel for the petitioner as to what were the material change in circumstances which would warrant entertaining the instant petition, he submits that not only has the petitioner now been in custody for more than two years, having been arrested on 21.05.2020 but after the charges were framed on 16.12.2021, the trial has come to a virtual standstill as not even a single witness out of the 13 prosecution witnesses cited so far, has been examined.

Learned counsel for the petitioner submits that the petitioner

has been falsely implicated in the case, in hand on the basis of an alleged chance recovery. He was shown to be carrying tablets weighing 320 grams in a bag at the time of the alleged apprehension by the police. He submits that since the petitioner was travelling during the lockdown imposed on account of the *pandemic*, he and the police party entered into a verbal spat, as a result of which, a false recovery of 320 grams of tablets was planted upon him. Learned counsel further submits that the petitioner is a man of clean antecedents as he is not involved in any other criminal case, much less under the NDPS Act. He further submits that the alleged recovery effected from the petitioner is marginally higher than the minimum prescribed under the commercial quantity i.e. 250 grams. Learned counsel thus prays that since the investigation is complete and there is no likelihood of the trial concluding in the near future, he be extended the concession of bail.

Per contra, learned State counsel, while opposing the prayer of the counsel opposite, has not been able to dispute that the trial has indeed being proceeding at a slow pace, inasmuch as, only charges stand framed and the prosecution evidence is due to commence on 22.09.2022. Learned counsel has admitted that the petitioner is not involved in any other criminal case, much less under the NDPS Act. He, however, submits that since the recovery effected from the petitioner falls under the commercial quantity, though marginally higher than the minimum prescribed under the NDPS Act, the petitioner be declined the concession of bail.

I have heard learned counsel for the parties and perused the relevant material on record.

The petitioner has been in custody since 21.05.2020. Even after

a lapse of more than two years, the trial has not proceeded and the prosecution evidence as conceded by the learned State counsel is yet to commence and the petitioner is not involved in any other case. As the investigation is complete, the alleged recovered contraband is marginally higher than the minimum prescribed under the commercial quantity and coupled with the fact that the petitioner is not involved in any other criminal case much less under the NDPS Act, this Court deems it fit to extend the concession of bail to the petitioner. The petition is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is made clear that any observation made here-in-above shall not be construed as an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

July 11, 2022
gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No