

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

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**CRM-M-19268-2021
Decided on : 23.03.2022**

Kulwant Singh @ Sunny

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. Lakshay Bector, Advocate
for the petitioner(s).

Mr. H.S. Grewal, Addl. AG, Punjab.

MANJARI NEHRU KAUL, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for grant of concession bail to the petitioner in case FIR No. 15, dated 28.01.2020, under Sections 22, 25, 61 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity, 'NDPS Act'), registered at Police Station Dakha, Tehsil and District Ludhiana (annexed as Annexure P-1).

Earlier petition filed by the petitioner seeking concession of bail under Section 439 Cr.P.C. was dismissed as withdrawn on 14th July, 2021.

Learned counsel for the petitioner contends that he has been falsely implicated in the case in hand. Learned counsel submits that the contraband was allegedly recovered from a bag, which was hanging from the handle of the motorcycle on which the petitioner was riding and the petitioner was not even the owner of the said motorcycle. He further submits that there was non-compliance of the mandatory provisions of the NDPS Act including that of Section 50 of the NDPS Act. Learned counsel

thus prays that he be extended the concession of bail as the trial has been proceeding at a slow pace and thus there is no likelihood of it concluding in the near future, more so, since only two out of 13 prosecution witnesses, have been examined so far.

Per contra learned State counsel while opposing the prayer and submissions made by the counsel opposite, submits that as conceded by the counsel opposite the recovery was not effected from his person, but from the bag which he was carrying on the handle of the motorcycle, hence, there was no question of compliance of Section 50 of the NDPS Act. He further submits that in the wake of the huge recovery of 900 intoxicant tablets (mark Colovidol 100) and 20 intoxicant tablets (mark Tricare), effected and that too pursuant to a secret information received by the investigating agency, wherein, he was specifically named, goes a long way to show that the petitioner was indeed involved in the narcotics trade. It has also been submitted that in view of the bar created under Section 37 of the NDPS Act, the petitioner was not entitled to the concession of bail.

Learned State counsel also submits that the delay in trial has been on account of the outbreak of the pandemic COVID-19. However, since normal functioning of the Courts has resumed, the trial would not take much time to conclude, as only formal witnesses remain to be examined. Learned State counsel submits that on the next date of hearing i.e. on 28th March, 2022, some more witnesses have been summoned and would be examined.

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

As per the prosecution, the petitioner was named in the secret information received and on being apprehended, a huge recovery as detailed

above was effected. It would be a matter to be adjudicated during trial as to whether the provisions of Section 50 of the NDPS Act, were required to be complied with or not, as the case of the prosecution is that the contraband was found in a bag hanging from the handle of the motorcycle. Moreover, in view of the bar created under Section 37 of the NDPS Act, this Court does not deem it appropriate to extend the concession of bail to the petitioner.

Dismissed. However, anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

March 23, 2022

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*