

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

210

**CRM-M-19447-2022
Date of decision: 26.07.2022**

Mandeep Singh @ Deepu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Abhinav Prashar, Advocate for
Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Mr. Abhay Pal Singh Gill, AAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

This is the first petition filed under Section 439 of the Cr.P.C. for grant of regular bail to the petitioner in case FIR No.150 dated 05.12.2020 lodged under Sections 22 and 61 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Sadar Abohar, District Fazilka.

At the very outset, learned counsel for the petitioner submits that in fact this is second petition under Section 439 of the Cr.P.C. and prays that he may be allowed to correct the said inadvertent mistake.

On oral request of learned counsel for the petitioner, the said mistake is allowed to be corrected. The Registry is directed to carry out the necessary correction in the head note of the petition by inserting the word 'second petition' instead of 'first petition'.

Learned counsel for the petitioner *inter alia* contends that the petitioner was allegedly apprehended during a routine naka being

conducted by the police at GT Road, Abohar and a false recovery of 950 tablets of tramadol (weighing about 300 grams) were shown to have been recovered from a black polythene which was lying in his close vicinity. Learned counsel submits that it being a case of false implication finds support from the fact that the mandatory provisions of the NDPS Act were not complied with at the time of the alleged search of the black bag which was lying close to the petitioner. He 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. It has also been submitted that the recovery effected is marginally higher than the minimum specified under the 'commercial quantity' in the NDPS Act. A prayer has, therefore, been made to extend the concession of bail to the petitioner as now he has been in custody since 05.12.2020 and 10 prosecution witnesses shall remain to be examined.

Per contra, learned State counsel while opposing the prayer of the counsel opposite, has not been able to controvert that the petitioner is not involved in any other criminal case much less under the NDPS Act. Learned State counsel has on instructions from ASI Jagraj Singh also conceded that the recovered contraband is approximately 300 grams which is marginally higher than the minimum specified i.e. 250 grams under the commercial quantity in the NDPS Act. He submits that the next date before the trial Court is 02.09.2022 when some prosecution witnesses are likely to be examined.

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

The alleged recovery effected from the petitioner as also

conceded by the learned State counsel is just about 50 grams more than the minimum prescribed under the commercial quantity in the NDPS Act. Since, the petitioner is not involved in any other criminal case and the trial will take time to conclude, this Court deems it fit to extend the concession of bail to the petitioner as now he has been in custody for almost 01 year 08 months.

Accordingly, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

26.07.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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