

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

CRM-M-25034-2021 (O&M)
Decided on : 18.05.2022

Labh Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. K.S.Brar, Advocate
 for the petitioner.

Mr. Nikhil Chopra, Addl. AG, Punjab.

Manjari Nehru Kaul, J.(Oral)

This is the second petition filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.154 dated 30.07.2020 under Section 22 of NDPS Act, 1985 (hereinafter called as 'Act') registered at Police Station Sangat District Bathinda.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been in custody for almost two years having been arrested on 30.07.2020 and there is no likelihood of the trial concluding in the near future as the trial has come to virtual standstill after the charges were framed on 21.09.2021. He submits that it is a case of chance recovery and on the face of it, a false recovery of 295 grams of smack has been planted upon him as there was non-compliance of the mandatory provisions of the Act. He further submits that the said recovery is just marginally higher than the minimum prescribed 'commercial quantity' under the law. He still further submits that the petitioner is a man of clean antecedents as he is not involved in any other case much less of similar nature.

Per contra, learned State counsel while opposing the prayer made by the counsel opposite on instructions has not been able to dispute that after 21.09.2021, the trial has not proceeded despite the case having been adjourned on as many as 9 dates. He has conceded that the petitioner is not involved in any other case much less under the NDPS Act. He submits that as many as 15 prosecution witnesses have been cited and the next date of hearing fixed before the trial Court is 06.06.2022.

Heard learned counsel for the parties and perused the relevant material on record.

The petitioner has been in custody since 30.07.2020 and there is no likelihood of the trial concluding in the near future. It has also not been controverted by the State counsel that the recovery allegedly effected from the petitioner, which was a chance recovery, was marginally higher than the minimum prescribed commercial quantity qua smack i.e. 250 gms.

In the facts and circumstances as enumerated hereinabove coupled with the fact that the trial would take considerable time to conclude, this Court deems it fit to extend the concession of bail to the petitioner. Accordingly, the present petition is allowed. The petitioner be admitted to bail to the satisfaction to 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.

(MANJARI NEHRU KAUL)
JUDGE

18.05.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No