

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

219

CRM-M-429-2023

Date of decision: 24.07.2023

Mohinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Lupil Gupta, Advocate
for the petitioner.

Mr. Harsimran Singh Sitta, DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.92 dated 16.11.2022 under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station City-2, Abohar, District Fazilka.

2. Learned counsel while drawing the attention of this Court to the FIR which has been annexed as Annexure P-1, inter alia submits that a perusal of the same clearly reveals that a secret information was received only qua co-accused Balwinder Singh @ Bhinder. It has been submitted that it was thereafter pursuant to a disclosure statement allegedly suffered by co-accused Balwinder Singh @ Bhinder, the petitioner was nominated as an accused in the case in hand. He submits that the petitioner has clean antecedents as he is not involved in any other case under the NDPS Act, hence, it is evident that the petitioner has been falsely implicated in the case in hand. It has also been

submitted that such disclosure statement has very weak evidentiary value. Learned counsel submits that after the petitioner was arrested on 18.11.2022 charges have been framed, however, none of the 12 prosecution witnesses have been examined so far. Hence, the trial would take considerable time to conclude.

3. Per contra, learned State counsel while opposing the prayer made by the counsel opposite, has not been able to controvert that no recovery of any contraband was effected from the petitioner after he was arrested on 18.11.2022. It has also not been disputed that secret information was not received qua him but qua co-accused Balwinder Singh @ Bhinder. Still further, the petitioner came to be nominated in the case in hand on the basis of a disclosure statement suffered by co-accused Balwinder Singh @ Bhinder. He submits that the next date of hearing fixed before the Trial Court is 02.08.2023. He does not dispute that the petitioner is not involved in any other case under the NDPS Act.

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

5. The petitioner has been in custody since 18.11.2022, who has been nominated as an accused on the basis of an alleged disclosure statement suffered by co-accused Balwinder Singh @ Bhinder. The trial is likely to take considerable time to conclude as none of the 12 prosecution witnesses have been examined till date. In the facts and circumstances as enumerated hereinabove, this Court deems it appropriate to extend the concession of bail to the petitioner.

6. Accordingly, the instant petition is allowed. The petitioner

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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.

7. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

24.07.2023 (MANJARI NEHRU KAUL)
Vinay JUDGE

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