

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

CRM-M No.1458 of 2023

Date of decision: 9th February, 2023

Binny Taank

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Jatinderpal Singh, Advocate for the petitioner.

Mr. Sanish Girdhar, Assistant Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner in the instant petition filed under Section 439 Cr.P.C. is seeking concession of regular bail in case bearing FIR No.0312 dated 06.08.2022 under Section 21(b)/61/85 of Narcotic Drugs and Psychotropic Substances Act, 1985; sections 353, 186 IPC and sections 52 and 52A of The Prisons Act, 1894 registered at Police Station City Faridkot, District Faridkot.

Learned counsel for the petitioner inter alia submits that the false implication of the petitioner in the case in hand is evident from the fact that on the same set of allegations and qua the same alleged recovery i.e. 78.10 grams of Heroin, he had been exonerated by the Court of learned Special Judge, Ferozepur vide order dated 17.12.2022 (Annexure P-5). Learned counsel submits that strangely despite he

having been exonerated and found innocent, the FIR in question had now been registered on 06.08.2022 at Faridkot qua the same set of allegations and recovery of 78.10 grams of Heroin. It has also been submitted that the petitioner has been in custody since 06.08.2022 and none of the 22 prosecution witnesses have been examined till date.

Learned State counsel has filed reply by way of affidavit of Jasmeet Singh PPS, DSP Sub Division Faridkot, which is taken on record subject to all just exceptions and a copy thereof supplied to the counsel opposite. He, on instructions has not been able to dispute that qua the same allegations and the alleged recovery, the petitioner had indeed been found innocent and exonerated by the Court of learned Special Judge, Ferozepur. However, he has drawn the attention of this Court to the reply wherein it stands mentioned that the petitioner is a part of a drug racket which is active in different parts of Punjab.

A pointed query was thus put to the learned State counsel as to whether the petitioner was involved in any other case under the NDPS Act, to which he has replied in the negative.

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

In the facts and circumstances, as enumerated hereinabove, coupled with the fact that the alleged recovery of 78.10 grams of Heroin falls under the non-commercial category, this Court deems it fit to allow the instant petition as the trial is unlikely to conclude in the near future. The petition as such is allowed and the petitioner is

admitted to bail to the satisfaction of the trial Court/Duty Magistrate.
However, it is made clear that anything contained hereinabove shall not
be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

February 9, 2023
rps

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