

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

209

**CRM-M-678-2023
Date of decision: 23.02.2023**

Jagdev Singh @ Deban

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Parminder Singh Sekhon, Advocate
for the petitioner.

Mr. Ramdeep Partap Singh, Sr. DAG, 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.110 dated 11.06.2017 under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station City Moga, District Moga.

Learned counsel for the petitioner contends that vide order dated 09.02.2018 passed in CRM-M-35971-2017, the arrest of the petitioner in the case in hand was stayed. However, thereafter since the petitioner had joined investigation, which fact was not disputed by the learned State counsel, this Court granted the concession of anticipatory bail to the petitioner after making the interim order absolute vide order dated 06.12.2019. After almost three years of being given the concession of anticipatory bail, CRM-9531-2020 for recalling the order dated 06.12.2019 (Annexure P-5) was filed by the prosecution on the ground that the petitioner had not joined investigation and a wrong statement had been made before the Court as a result of which orders

dated 06.12.2019 and 09.02.2018 were recalled vide order dated 02.12.2022 (Annexure P-6). In the meanwhile, the petitioner was arrested on 07.12.2022.

Learned counsel for the petitioner *inter alia* contends that the police was nursing a grudge against him on account of the fact that his wife had approached this Court by way of CRM-M-40918-2017 against the forcible occupation of their house by the police, which they wanted to convert into a police post. In the said petition, the atrocities being committed by the police had also been detailed. Finally vide order dated 08.01.2019, not only did the police vacate the house of the petitioner but also handed over a draft of Rs.42,000/- in favour of the wife of the petitioner as rent. In support, learned counsel drew the attention of this Court to the order dated 08.01.2019 annexed as Annexure P-4.

It has further been contended by the learned counsel for the petitioner, that all the above facts were brought to the notice of this Court in CRM-M-35971-2017, when the petitioner approached this Court for grant of anticipatory bail subsequent to the registration of the FIR in question and which also found reflected in the order dated 09.02.2018 (Annexure P-2). Learned counsel has argued with vehemence that it is thus apparent that on account of the grudge which the police was nursing against him, he had been falsely implicated in the case in hand. It has been submitted that neither was the petitioner apprehended at the spot nor the car from which the alleged recovery of 350 kgs. of poppy husk was effected belonged to him. It was only pursuant to a disclosure statement made by co-accused Surinder Singh,

who was driving the vehicle in question from which the alleged recovery was effected, the petitioner was nominated as an accused. It has also been argued that in case, assuming for the sake of arguments, the petitioner had been granted the concession of anticipatory bail on a wrong statement made, it was very strange that it was after almost 03 years the prosecution had woken up and approached the Court for recalling of the anticipatory bail granted to him, which further lent credence that on account of the inimical relations between him and the police, the latter was trying to harass him on one pretext or the other. Not only this, the police was hell bent on implicating the petitioner in other false cases.

Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, has submitted that no doubt the petitioner was not apprehended at the spot with co-accused Surinder Singh who was driving the vehicle from which recovery of 350 kgs. poppy husk was effected, however, he was named in the disclosure statement of co-accused Surinder Singh who stated that the petitioner was accompanying him and fled away when the vehicle was stopped by the police. Learned State counsel was unable to controvert the submissions made by the learned counsel opposite qua the orders passed by this Court in CRM-M-40918-2017 (Annexure P-4). He further was also not able to dispute that the anticipatory bail granted to the petitioner vide order dated 06.12.2019 (Annexure P-5) was given not only in the presence of the State counsel but only because as per instructions received, the petitioner had joined investigation.

On a pointed query put to the learned State counsel if any action had been initiated against the erring official who gave wrong instructions, he replied in the negative.

When a further query was put to the learned State counsel as to why they had not approached this Court immediately after the petitioner had been granted the concession of anticipatory bail vide order dated 06.12.2019 (Annexure P-5) and had instead woken from their slumber as recently as on 07.12.2022, no satisfactory reply was forthcoming.

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

In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner as the charges have not yet been framed and thus the trial will take considerable time to conclude. 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.

23.02.2023

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(MANJARI NEHRU KAUL)
JUDGE

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