

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

CRM-M No.1195 of 2023
Date of decision: 21st March, 2023

Mukesh Kumar

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. V.B. Godara, Advocate for the petitioner.

Mr. Chetan Sharma, Assistant Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

The instant petition has been filed under Section 439 Cr.P.C. for grant of the concession of bail in case bearing FIR No.569 dated 21.10.2022 under Section 21(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station City Fatehabad, District Fatehabad.

Learned counsel for the petitioner inter alia submits that a false and fabricated case has been planted upon the petitioner for having been allegedly found in possession of 25.40 grams of Heroin in a transparent bag (non-commercial quantity). Learned counsel submits that the petitioner does not have any criminal antecedents much less being involved in a case under the NDPS Act. He submits that investigation is complete and the charges have not yet been framed and hence, there is no likelihood of the trial concluding in the near future. A

prayer has therefore, been made for grant of concession of regular bail to the petitioner.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not been able to dispute that the alleged recovery, which was a chance recovery, fell under the non-commercial category, and still further, the petitioner does not have any criminal antecedents, much less of being involved in a case under the NDPS Act. Learned State counsel has further submitted that though the case was fixed for framing of charges for 16.02.2023, however, now the case stood adjourned to 28.03.2023 before the trial Court when the charges were likely to be framed.

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

The petitioner has now been in custody since 21.10.2022. The recovery allegedly effected from the petitioner falls under the non-commercial category. Investigation is complete and the petitioner, as not disputed above by the learned State counsel, is not involved in any other criminal case, much less under the NDPS Act. In the facts and circumstances, as enumerated hereinabove, since there is no likelihood of the trial concluding in the near future, this Court deems it fit to allow the instant petition. 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.

Needless to add here that in case the petitioner misuses the concession of bail, the State would be at liberty to approach this Court for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)
JUDGE

March 21, 2023

rps

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