

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.4561 of 2023

Date of decision: 16th February, 2023

Sumit Chauhan

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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

Mr. Amit Rana, Sr. Deputy 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.326 dated 06.07.2022 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as, 'the NDPS Act') registered at Police Station Zirakpur, District SAS Nagar.

Learned counsel for the petitioner inter alia submits that on the face of it, a false and fabricated case has been foisted upon the petitioner on the allegations that he along with the co-accused while walking on the road, were apprehended by the police and recovery of 620 injections of Leegesic effected from a backpack which was jointly held by both the accused. Learned counsel submits that while effecting the alleged recovery, mandatory provisions of the Act were given a go

by and still further a joint offer was given to the petitioner and the co-accused, and a joint consent memo was prepared. Learned counsel further submits that the complainant and the investigating officer are also the same in the case in hand. It has been submitted that the petitioner has clean antecedents and is not involved in any other criminal case, much less under the NDPS Act. Learned counsel also submits that the petitioner has now been in custody since 06.07.2022 and there is no likelihood of the trial concluding in the near future as prosecution evidence has not yet commenced.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has submitted that the alleged recovery effected fell under the commercial quantity for which the petitioner did not deserve concession of bail. However, he has not been able to dispute that a joint consent offer was given to the petitioner and the co-accused, and a joint consent memo had been prepared. He submits that it was done so on account of the fact that the bag from which the alleged recovery was effected was being carried jointly by them. He has also not been able to dispute that the petitioner is not involved in any other criminal case, much less under the NDPS Act.

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

Prima facie it does appear that the mandatory provisions of the Act were not complied with. The petitioner has now been in custody since 06.07.2022 and the trial shall take considerable time to conclude as the prosecution evidence has not yet commenced. The petitioner is not shown to be involved in any other criminal case, much less under the NDPS Act.

In the facts and circumstances, as enumerated hereinabove, 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.

(MANJARI NEHRU KAUL)
JUDGE

February 16, 2023

rps

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