

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.11712 of 2023
Date of decision: 19th April, 2023

Gagan Kumar
... Petitioner

Versus

State of Haryana
... Respondent

CORAM: HON’BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. P.S. Sekhon, Advocate for the petitioner.
Mr. Chetan Sharma, Assistant Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

This is fourth petition filed by the petitioner under Section 439 Cr.P.C. for grant of the concession of bail in case bearing FIR No.497 dated 21.12.2020 under Sections 22-C and 27-A of Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Sadar Fatehabad, District Fatehabad.

Learned counsel for the petitioner inter alia submits that subsequent to the withdrawal of the previous petition in July, 2022 wherein the petitioner had sought similar relief, as many as 8 prosecution witnesses stand examined. It has been further submitted that since 8 prosecution witnesses still remain to be examined, there is no likelihood of the trial concluding in the near future and in the

circumstances, further incarceration of the petitioner would serve no useful purpose.

While drawing the attention of this Court to the FIR, which has been annexed as Annexure P-1, learned counsel submits that it was a case of chance recovery wherein 7000 Tramadol tablets were allegedly recovered from the dickey of the scooter of co-accused Sanjay. Learned counsel submits that the petitioner was just a pillion rider and hence, he could not be connected with the alleged recovery. It has also been submitted that the petitioner has no criminal past as he is not involved in any other case under the provisions of NDPS Act.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, submits that no doubt the alleged recovery of contraband was effected from the dickey of the scooter of co-accused Sanjay, however, the petitioner was also nabbed along with him when he was stopped by the police party. The petitioner, at the given point in time, was pillion riding, hence his involvement in the crime in question could not be ruled out. Learned State counsel on further instructions, has however not been able to dispute that the petitioner is not involved in any other case under the NDPS Act. He submits that the petitioner, prior to registration of the FIR in question, was involved in a case under the Excise Act for which now he has been released on probation. He has also not been able to controvert that no recovery of any contraband was effected from the person or conscious possession of the petitioner.

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

The petitioner has been in custody for almost 2 years and 4 months, having been arrested on 21.12.2020. He is not involved in any other case under the NDPS Act. Since only 8 out of 16 prosecution witnesses stand examined, the trial will take considerable time to conclude. In the facts and circumstances as enumerated hereinabove, this Court thus deems it fit to grant the concession of bail to the petitioner. 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

April 19, 2023
rps

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