

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

105+219

CRM-M-11809-2023 (O&M)

Date of decision: 27.03.2023

Narender Singh @ Happy

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ashok Giri, Advocate
for the petitioner.

Mr. Rahul Mohan, DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-13461-2023

For the reasons mentioned in the application, the same is allowed and photocopies of orders/judgments of cases already undergone by the petitioner are taken on record as Annexures P-3 to P-8 subject to all just exceptions.

CRM-M-11809-2023

The petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.508 dated 07.06.2020 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') (Section 29 of the NDPS Act added lateron) registered at Police Station City Thanesar, District Kurukshetra.

Learned counsel for the petitioner *inter alia* contends that the alleged recovery of 7.5 grams of heroin was not effected from the petitioner but from co-accused Ravi @ Tinku @ Mogli and it was only

pursuant to the disclosure statement made by the co-accused, the petitioner came to be nominated as an accused in the instant case. Learned counsel has placed on record, photocopies of orders/judgments of cases in which the petitioner was convicted to controvert the submissions made by the learned State counsel on the last date of hearing that the petitioner was serving sentence in various criminal cases including under the NDPS Act. Learned counsel while drawing the attention of this Court to Annexures P-3 to P-8, submits that it is a matter of record that the petitioner, though involved in all those cases, had since served out his sentence in all the other criminal cases. He submits that the petitioner has now been in custody for almost 01 year and 05 months and not even a single prosecution witness out of the 16 cited, has been examined till date, hence, there is no likelihood of the trial concluding in the near future.

Per contra, learned State counsel while opposing the prayer made by the counsel opposite, on instructions from ASI Shiv Kumar, has not been able to dispute that the petitioner has served out his sentence in all the other criminal cases in which he stood convicted. He has also not been able to dispute that the alleged recovery of 7.5 grams of heroin (non-commercial quantity) was effected from the possession of co-accused Ravi @ Tinku @ Mogli.

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

The trial is unlikely to conclude as no prosecution witness out of the 16 cited has been examined till date. The alleged recovery of 7.5 grams of heroin as conceded by the learned State counsel, was not

effected from the petitioner. Therefore, this Court deems it fit to extend the concession of bail to the petitioner.

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.

It is made clear that in case the petitioner misuses the concession of bail, the State would be at liberty to seek cancellation of the bail granted to him.

27.03.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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