

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.14120 of 2023
Date of decision: 24th March, 2023

Pawan Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Liaqat Ali, Advocate for the petitioner.
Mr. Amit Rana, Sr. Deputy Advocate General, Punjab
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.214 dated 24.10.2021 under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Mukerian, District Hoshiarpur.

Learned counsel for the petitioner inter alia submits that the petitioner, who is a 52 years old man and admittedly suffering from heart ailment, as would be evident from the opinion of Dr.V.M. Jasrai (Annexure P-2), has been falsely implicated in the case in hand for allegedly being found in possession of 58 grams of Charas (small quantity). He submits that there is no likelihood of the trial concluding in the near future as only charges have been framed till now and the

prosecution evidence is due to commence on 28.04.2023. Learned counsel submits that the petitioner has clean antecedents and is not involved in any other criminal case much less a case under the NDPS Act. It has also been submitted that it was a case of chance recovery and at the time of the alleged recovery, the mandatory provisions of the Act were not fully complied with.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Ram Singh submits that since it is a case of chance recovery, a consent memo was prepared and signed by the petitioner and it was only thereafter, his search was carried out by the complainant/Investigating Officer pursuant to which, recovery of 58 grams of Charas was effected from him. Learned State counsel on further instructions has not been able to controvert the submissions made by the learned counsel for the petitioner that he 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.

The petitioner has been in custody since 24.10.2022 and there is no likelihood of the trial concluding in the near future as none of the 10 prosecution witnesses cited, have been examined so far. The petitioner is not involved in any other criminal case much less a case under the NDPS Act. In the facts and circumstances, as enumerated hereinabove, this Court thus 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 24, 2023

rps

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