

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

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2023:PHHC:084511

CRM-M No.14154 of 2023

Date of decision: July 5th, 2023

Sonu Kumar @ Nashil

.....Petitioner

Versus

The State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ritesh Tomar, Advocate
for the petitioner.

Mr. Rahul Mohan, Senior Deputy Advocate General, Haryana,
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.281 dated 22.09.2021 registered under Sections 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Kheri Pul, Faridabad.

On a pointed query put to the learned counsel for the petitioner as to what was the material change in the circumstances subsequent to the dismissal of the previous petition, wherein the petitioner had sought similar relief, he submits that co-accused Aakash Singh, who too had been nominated as an accused on the basis of disclosure statement allegedly suffered by accused Manish Kumar and Sunil, had been extended the concession of bail by this Court vide order dated 14.02.2023 (Annexure P-4). It has been submitted that the petitioner too was nominated as an accused on the basis of disclosure statement allegedly suffered by the co-accused Manish Kumar and Sunil, from whom the alleged recovery of 58 kg 326 grams of *ganja* was effected. Learned counsel has argued that in fact the alleged disclosure statements, which have been annexed as Annexures P-2 and P-3 are totally

bogus and fabricated which is evident from the fact that the alleged recovery was effected from the co-accused on 22.09.2021, however, strangely the disclosure statements were recorded eight months prior thereto i.e. on 15.01.2021. Learned counsel has still further submitted that after the petitioner was arrested, no recovery of any contraband much less *ganja* was effected from his possession. Learned counsel, therefore, submits that in the aforementioned facts and circumstances, since the trial has been proceeding at a very slow pace, the petitioner be enlarged on bail as there is no manner of doubt qua the innocence of the petitioner.

Per contra, learned State counsel, while opposing the prayer and submissions made by the counsel opposite, has submitted that the petitioner had been purchasing ganja through co-accused Manish Kumar and Sunil and the recovery effected was pursuant to a secret information received by the police. Learned State counsel has, however, not been able to dispute that the disclosure statement on the basis of which the petitioner came to be nominated as an accused, had been recorded on 15.01.2021, which was eight months prior to the alleged recovery. He has, on instructions from S.I. Sunil, submitted that one witness out of the 19 prosecution witnesses cited has been examined so far and the next date fixed before the trial Court is 20.07.2023, when some more witnesses are likely to be examined.

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

The petitioner has been in custody for almost 1 year and 5 months having been arrested on 16.01.2022. The petitioner came to be nominated as an accused on the basis of a disclosure statement suffered by co-accused Manish Kumar and Sunil which as already noticed was

recorded 8 months before the alleged recovery. Learned State counsel has not disputed that the co-accused Aakash, who was similarly situated as the petitioner, has since been extended the concession of bail.

The trial is not likely to conclude in the near future. Hence this Court deems it fit to extend the concession of bail to the petitioner and, 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.

Needless to add here, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

July 5th, 2023
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned	:	Yes
Whether reportable	:	No