

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

CRM-M No.16955 of 2023
Date of decision: 31st August, 2023

Rajinder Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. V.P. Singh Rathore, Advocate for the petitioner.

Mr. Amit Rana, Sr. Deputy Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.21 dated 25.04.2022 under Sections 18(C) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Tibber, District Gurdaspur.

2. Learned counsel for the petitioner inter alia submits that the petitioner was owner and driver of the truck, which was intercepted on suspicion during a routine naka by the police. He further submits that the petitioner had merely given a lift to the co-accused Sandeep Masih, when his truck was intercepted by the police. Learned counsel submits that it was a matter of record that no recovery of any contraband, much less Opium, was effected either from the truck or from his house after his arrest on 25.04.2022. Learned counsel has still further submitted that the recovery of 2.6 kgs of Opium was effected from the conscious possession

of co-accused Sandeep Masih, who was carrying it in a plastic bag. He submits that the petitioner being innocent finds credence from the fact that he is not involved in any other criminal case, much less under the NDPS Act, whereas co-accused Sandeep Masih is involved in 6/7 more criminal cases under the NDPS Act. Learned counsel has thus, prayed for extending the concession of bail to the petitioner as there is no likelihood of the trial concluding in the near future, since only 2 prosecution witnesses out of the 14 cited stand examined till date.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from SI Mohan Singh, has not disputed that recovery of 2.6 kgs of Opium was effected from the conscious possession of the co-accused Sandeep Masih. He has also not been able to dispute that the petitioner is not involved in any other criminal case, or that no contraband was recovered from the possession of the petitioner or from his house after his arrest on 25.04.2022. However, he submits that the petitioner and co-accused Sandeep Masih were not strangers to each other as it was a matter of record that co-accused Sandeep Masih had confessed during interrogation that he had been transferring money through Google Pay in the name of the brother of the petitioner, who too is an accused in the case in hand.

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

5. The recovery of contraband, allegedly effected, is marginally higher than the minimum classified as commercial under the NDPS Act.

The petitioner is not shown to be involved in any other criminal case, much less under the NDPS Act. As also not disputed by the learned State counsel, no recovery of any contraband, much less Opium, was effected from the conscious possession of the of the petitioner or from his house. The trial is unlikely to conclude in the near future, as 12 prosecution witnesses still remain to be examined. In the facts and circumstances, as enumerated hereinabove, this Court thus deems it fit to extend 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 observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

6. Needless to add here, 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

August 31, 2023
rps

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