

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

218

CRM-M-17157-2023

Date of decision: 03.05.2023

Bohar Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.259 dated 14.10.2022 under Sections 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station STF Phase-IV, Mohali, District SAS Nagar (Mohali).

2. On the last date of hearing, it had been submitted by the learned counsel for the petitioner that subsequent to the withdrawal of the previous petition on 13.01.2023, charges stood framed against the petitioner and even the prosecution evidence was underway which fact was, however, controverted by the learned State counsel who had instead contended that there was no material change in circumstances, which would warrant acceptance of the instant petition.

3. However, today learned State counsel, on instructions from SI Gurnek Singh, has apprised the Court that the charges have indeed

been framed and the prosecution evidence is underway and the next date of hearing before the Trial Court is 29.05.2023. Learned State counsel submits that the recovered contraband was effected while the petitioner was riding his motorcycle and co-accused Fatta Singh was pillion riding with the bag in between both of them.

4. On a pointed query put to the learned State counsel as to whether the petitioner was involved in any other criminal case including any case under the NDPS Act, he on instructions has apprised the Court in the negative. In support, learned State counsel has also filed custody certificate of the petitioner which is taken on record subject to all just exceptions.

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

6. The petitioner has been in custody since 14.10.2022 and as 15 prosecution witnesses have been cited and none has been examined, there is no likelihood of the trial concluding in the near future. The recovered substance i.e. 2 kgs. of opium does not fall within the commercial quantity. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

7. 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.

8. It is further made clear that in case the petitioner is

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involved in any other case under the NDPS Act or if he misuses the concession of bail, the State would be at liberty to seek cancellation of bail granted to the petitioner.

03.05.2023

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(MANJARI NEHRU KAUL)
JUDGE

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