

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

208

2023:PHHC:118119

CRM-M-18673-2022

Date of decision: September 5th, 2023

Labh Singh alias Labha

.....Petitioner

Versus

Narcotics Control Bureau, Chandigarh Zonal Unit, Chandigarh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Pradeep Virk, Advocate
for the petitioner.

Ms. Gurmeet Kaur Gill, Senior Panel Counsel,
for respondent-NCB.

MANJARI NEHRU KAUL, J.

The petitioner is seeking the concession of regular bail under Section 439 of the Code of Criminal Procedure, 1973 in case bearing NCB Crime No.14 dated 05.05.2015 registered under Sections 8, 18, 27A, 29 and 30 of the NDPS Act, 1985 at Police Station Narcotic Control Bureau, Chandigarh Zonal Unit, Chandigarh.

2. Status report dated 05.09.2023 has been filed by learned counsel for the respondent, which is taken on record.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was nominated as an accused on the basis of a disclosure statement allegedly suffered by co-accused Sukhbir Singh and thereafter, a false recovery of 13 kgs of opium shown to have been effected from the house of the petitioner. Learned counsel submits that not only is the evidentiary value of such disclosure statement weak in nature but even the recovery-cum-seizure memo, *panchnama* etc. with respect to the recovery does not bear the signatures of his parents, in

whose presence the recovery was allegedly effected. Learned counsel has further submitted that it is also a matter of record that one of his co-accused, who faced trial, had since been acquitted vide judgment dated 13.10.2018 passed by the learned Additional Sessions Judge, Sirsa. Prayer has, therefore, been made by learned counsel for extending the concession of bail to the petitioner as his further incarceration will serve no useful purpose, more so since he has now been in custody for almost 2 years, 9 months.

4. *Per contra*, learned counsel appearing for NCB has vehemently opposed the prayer and submissions made by the counsel opposite. It has been submitted that the petitioner is a man of criminal antecedents. A total recovery of 36 kgs of opium was effected and another 13 kgs of opium had been recovered from the house of the petitioner pursuant to the disclosure statement made by the co-accused. Learned counsel appearing for NCB has further submitted that the petitioner had absconded after the registration of the FIR in question and was subsequently declared a proclaimed offender. It was after five years that he could be arrested only on 14.12.2021. Learned counsel has also drawn the attention of this Court to para 3 of the status report filed today, wherein the involvement of the petitioner in various criminal cases stands detailed. Learned counsel has submitted that no doubt, out of the nine criminal cases registered for various offences under the Indian Penal Code as well as under the NDPS Act, the petitioner had been acquitted in five of them, however, the petitioner had been convicted in FIR No.09 dated 15.01.2010 under Sections 17/18/27A/61 of the NDPS Act and in FIR No.220 dated 29.05.1998 at Police Station Kalawali (Sirsa). It has also been further submitted that the petitioner

had committed the crime after his sentence was suspended in the aforementioned FIR(s). Learned counsel has thus, prayed for dismissal of the petition keeping in view his criminal antecedents as there was every likelihood that the petitioner could yet again abscond or even misuse the concession of bail by being involved in a similar crime.

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

6. No doubt, the petitioner was nominated as an accused in pursuance of a disclosure statement allegedly made by co-accused, however, this Court cannot be expected to turn a blind eye to the huge recovery of 13 kgs of opium effected from his house and that the petitioner was declared a proclaimed offender after the registration of the instant FIR. In addition, the petitioner, *prima facie*, comes across a history sheeter. Hence, in the facts and circumstances as enumerated hereinabove, this Court does not deem it fit to extend the concession of regular bail to the petitioner.

7. The petition, therefore, stands dismissed.

8. 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.

9. The trial Court shall make earnest efforts to expedite the trial since the petitioner has been in custody since 14.12.2021.

September 5th, 2023

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**(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No