

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.23848 of 2023
Date of decision: 7th August, 2023

Gaurav @ Kaku

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ankur Lal, Advocate for the petitioner.

Mr. Rahul Mohan, Sr. Dy. Advocate General, Haryana
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.531 dated 08.10.2022 under Sections 22-C and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station City Kaithal, District Kaithal.

2. Learned counsel for the petitioner inter alia submits that a false case having been planted upon the petitioner is evident from the fact that neither was he named in the secret information received by the police party, nor any recovery of any contraband effected from him. He submits that the petitioner came to be nominated as an accused pursuant to a disclosure statement allegedly suffered by Ishu, who stated that the recovered contraband had been purchased from him.

Learned counsel further submits that even Ishu was not named in the secret information received by the police and was nominated as an accused in the disclosure statement suffered by the main accused Pargat, from whom recovery of 6000 tablets of Tramadol was effected. Learned counsel also submits that such a disclosure statement, pursuant to which he has been nominated as an accused in the case in hand, does not have much evidentiary value. He submits that the petitioner has clean antecedents and is not involved in any other criminal case much less under the NDPS Act. A prayer has therefore, been made for extending the concession of bail to the petitioner, as his further incarceration would serve no useful purpose.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Sandeep, has not been able to dispute that the petitioner was nominated as an accused only in the disclosure statement suffered by co-accused Ishu. It has also not been disputed that no recovery much less of any contraband was effected from the petitioner. However, learned State counsel submits that drug money in the sum of ₹ 900/- was recovered from the petitioner. On a pointed query put to the learned State counsel as to whether the petitioner was involved in any other criminal case, he on instructions has replied in the negative.

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

5. The petitioner has been in custody since 04.03.2023. Investigation is complete and even charges stand framed. However, none of the 23 prosecution witnesses cited, have been examined so far. As per the instructions received by the learned State counsel, the next date of hearing fixed before the trial Court is 08.09.2023 when the prosecution evidence is likely to commence. 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 7, 2023
rps

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