

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

103+220

2023:PHHC:138593

CRM-39069-2023 in/and
CRM-M-24101-2023
Date of decision: October 30th, 2023

Aashik Hussain

.....Petitioner

Versus

State of UT Chandigarh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Abhishek Joon, Advocate
for the petitioner.

Mr. Manish Bansal, Public Prosecutor, U.T. Chandigarh.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-39069-2023

Application is allowed subject to just exceptions and details of account of the petitioner along with annexures are taken on record.

CRM-M-24101-2023

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.60 dated 03.02.2023 under Section 15 of the NDPS Act registered at Police Station Sector 36, Chandigarh.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been nominated as an accused on the basis of a disclosure statement allegedly suffered by co-accused Gurpreet Singh from whom recovery of 30 kilograms of poppy husk was effected. Learned counsel submits that said Gurpreet Singh while making his disclosure statement named two other persons i.e. Mangata and

Kan Singh Purawat. It has been submitted that thereafter when the

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I attest to the accuracy and
integrity of this document.
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petitioner was apprehended on 09.02.2023, no recovery of any contraband much less poppy husk was effected from him, whereas recovery of poppy husk was allegedly effected from the other two persons i.e. Mangata and Kan Singh Purawat, who too had been named in the disclosure statement. It has still further been submitted that when Mangata was apprehended, recovery of 10 kilograms of poppy husk was effected from him. Learned counsel submits that petitioner's false implication in the case in hand is evident from the fact that he is not involved in any other criminal case much less under the NDPS Act. It has further been submitted that the evidentiary value of the disclosure statement pursuant to which the petitioner has been nominated as an accused is admittedly of a weak nature for which he deserves to be enlarged on bail.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not disputed that the petitioner was arraigned as an accused on the basis of a disclosure statement suffered by Gupreet Singh. He submits that the petitioner was a supplier of contraband. Learned State counsel has also not disputed that co-accused Mangata from whom recovery of 10 kilograms of poppy husk was effected has already been released on bail.

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

5. The petitioner has been in custody since 09.02.2023. After the charges were framed on 30.10.2023, none of the prosecution witnesses have been examined. Hence, there is no likelihood of the trial

concluding in the near future. In addition to this, the petitioner is not involved in any other case much less under the NDPS Act.

6. In the facts and circumstances as enumerated hereinabove, 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.

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

October 30th, 2023
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No