

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

CRM-M No.30396 of 2023
Date of decision: 17th July, 2023

Rajinder Kumar @ Dudi @ Ganji

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Satnam Singh Gill, Advocate for the petitioner.

Mr. Subhash Godara, Addl. 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.132 dated 20.07.2023 under Sections 15/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Bhawanigarh, District Sangrur.

2. While inviting the attention of this Court to the FIR, which has been reproduced in the body of the petition, learned counsel submits that a perusal of the same clearly reveals that it was registered against unknown persons for allegedly transporting 165 kgs of poppy husk in a jeep. Learned counsel submits that the Jeep, which was recovered from the spot, was not in any way connected with the petitioner, as admittedly RC of the said vehicle was not in his name. He

further submits that the petitioner came to be nominated as an accused on the basis of statement made by one Labh Singh, who while stepping into the witness box, failed to support the case of the prosecution as a result of which he was declared hostile. Learned counsel submits that no doubt, the FIR in question was registered way back in the year 2003 and it was only as recently as on 17.07.2022 the petitioner had surrendered, however, it was a matter of record that similarly placed co-accused Ashok Kumar, who too was nominated as an accused on the statement of Labh Singh, has since been acquitted by the trial Court. Learned counsel also submits that the petitioner's false implication in the case in hand, is evident from the fact that he has clean antecedents as he is not involved in any other criminal case, much less under the NDPS Act. Learned counsel thus submits that in the circumstances, further incarceration of the petitioner 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 Pritpal Singh, has submitted that the petitioner had absconded for 18 years after the FIR in question came to be registered, as a result of which he was declared a proclaimed offender. However, he has not been able to dispute that the FIR in question was registered against unknown persons and it was only on the statement of one Labh Singh, which was recorded after 1 ½ months of the alleged recovery, the petitioner came to be nominated as an accused in the FIR in question.

He has also not been able to dispute that co-accused Ashok Kumar, who was similarly placed and had also been nominated as an accused pursuant to the statement made by Labh Singh, had since been allowed bail by the trial Court on 10.02.2010. Learned State counsel on instructions submits that after the supplementary challan was presented on 19.11.2022, as many as 3 witnesses out of 21 cited had been examined and the next date of hearing fixed before the trial Court was 20.07.2023 when some more witnesses were likely to be examined.

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

5. The petitioner, as conceded by the learned State counsel, was neither named in the FIR in question nor any recovery effected from him at the time of his arrest. Still further, it has also not been disputed by the learned State counsel that similarly placed co-accused Ashok Kumar, who too had been nominated as an accused on the statement of Labh Singh, had since been acquitted by the trial Court. In the facts and circumstances, as enumerated hereinabove, coupled with the fact that the petitioner is not involved in any other criminal case and still further, the trial shall take a considerable time to conclude, 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

July 17, 2023
rps

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