

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

223

CRM-M-33962-2023

Date of decision: 21.07.2023

Ramesh Sharma @ Raju

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Arshdeep Singh Brar, 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.214 dated 29.08.2022 under Sections 15 and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Sidhwan Bet, District Ludhiana (Rural).

2. Learned counsel for the petitioner submits that the police without as much as complying with the mandatory provisions of Section 42 of the NDPS Act raided a house in the middle of the night, which was in the possession of co-accused Gurbhej, and effected an alleged recovery of 60 kgs of poppy husk from there. The house from where the aforesaid recovery was effected was not even owned by the petitioner. Subsequently, a recovery of 20 kgs of poppy husk was shown from the car of the petitioner which was lying parked outside the aforementioned house. It has been contended by the learned counsel

that a false case having been planted upon the petitioner is evident from the fact that he is not involved in any other case under the NDPS Act. It has further submitted that even the alleged recovery from his car of 20 kgs poppy husk falls under non-commercial quantity. A prayer has, therefore, been made that the petitioner be enlarged on bail as he has been in custody since 29.08.2022 and none of the prosecution witnesses have been examined till date.

3 .Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions from ASI Rajender Singh, has submitted that a secret information was received against all of the accused including the petitioner. When the police party arrived at the house of co-accused Gurbhej, all the accused were found present and a recovery of 60 kgs of poppy husk packed in 03 different bags was effected. On a search carried out of the car of the petitioner which was found parked outside the house of co-accused Gurbhej, 20 kgs of poppy husk was effected from its boot. Learned State counsel submits that non-compliance of Section 42 of the NDPS Act, if any, would be delved into during trial. Learned State counsel on instructions, however, has not been able to dispute that the petitioner is not involved in any other case under the NDPS Act and prosecution evidence is yet to commence.

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

5. The petitioner has been in custody since 29.08.2022 and the prosecution evidence as already observed is yet to commence.

Hence, the trial is unlikely to conclude in the near future. Keeping in

view the fact that the petitioner is not involved in any other case under the NDPS Act and recovery effected from his car is of only 20 kgs of poppy husk coupled with the fact that recovery of 60 kgs of poppy husk allegedly effected from the house in the possession of co-accused Gurbhej, this Court deems it fit to extend the concession of bail.

6. 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.

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

21.07.2023

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(MANJARI NEHRU KAUL)
JUDGE

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