

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

226

CRM-M-34170-2023

Date of decision: 02.08.2023

Jaiveer Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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

Mr. P.S. Grewal, DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (second) petition is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.132 dated 20.07.2023 under Sections 15/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Bhawanigarh, District Sangrur.

2. Learned counsel for the petitioner *inter alia* contends that a perusal of the FIR which has been reproduced in the body of the petition, reveals that it had been registered against unknown persons wherein it had been alleged that 165 kgs of poppy husk was being transported in a jeep. Learned counsel submits that the jeep which was being used to transport 165 kgs of poppy husk and which was found lying abandoned at the spot was in no way connected with the petitioner as admittedly the said vehicle was not even registered in his name. Learned counsel has submitted that the petitioner was nominated

as an accused in the case in hand on the statement of one Labh Singh. However, said Labh Singh while stepping into the witness box had not supported the case of the prosecution as a result of which he was declared hostile. Learned counsel has further submitted that identically placed co-accused Ashok Kumar, who too had been nominated as an accused on the basis of the statement of Labh Singh, had after the registration of the FIR in question faced trial and had since been acquitted. Learned counsel has still further submitted that no doubt the FIR in question was registered in the year 2003 and the petitioner surrendered on 03.08.2022, however, it was a matter of record that during the preceding years ever since the registration of the FIR in question the petitioner had not been involved in any criminal case much less in a case under the NDPS Act. Learned counsel has submitted that the trial is unlikely to conclude in the near future as only 01 witness out of the 21 cited, stands examined.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions, has submitted that the petitioner had absconded after the registration of the FIR in question as a result of which he was declared a proclaimed offender. Learned State counsel has, however, not disputed 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 one and a half month of the alleged recovery, the petitioner came to be nominated as an accused. Learned State counsel has also not been able to dispute that identically placed co-accused Ashok Kumar who too had been nominated as an accused pursuant to

the statement made by Labh Singh, had been acquitted by the Trial Court. Learned State counsel has also not disputed that only 01 prosecution witness out of the 21 stands examined.

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

5. The petitioner was neither named in the FIR in question nor recovery of any contraband effected from him when he was arrested on 03.08.2022. It is a matter of record that identically placed co-accused Ashok Kumar has since been acquitted by the learned 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 is unlikely to conclude in the near future, this Court deems it fit to extend the concession of bail to the petitioner.

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.

02.08.2023

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(MANJARI NEHRU KAUL)
JUDGE

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