

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

CRM-M No.38211 of 2023

Date of decision: 11th August, 2023

Subhash Dass

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ravi Rana, Advocate for the petitioner.

Mr. I.P.S. Sabharwal, Deputy 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.185 dated 01.11.2022 under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Sections 29, 27 of the NDPS Act added later on) registered at Police Station GRP Ludhiana, District Govt. Railway Police.

2. Learned counsel for the petitioner inter alia contends that a false and fabricated case has been planted upon him pursuant to a disclosure statement allegedly suffered by co-accused Hari Sahni, from whom a recovery of 5 kgs of Charas was effected. Learned counsel submits that the petitioner has clean antecedents as it is a matter of record that he has never been involved in any other criminal case, much less under the NDPS Act. It has also been submitted that the disclosure statement, on the basis of which the petitioner was nominated as an

accused in the instant case, does not have much evidentiary value. He has still further submitted that after the petitioner was arrested on 06.11.2022, none of the 18 prosecution witnesses cited had been examined till date and hence, there was no likelihood of the trial concluding in the near future. 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, has not been able to controvert that the petitioner was not apprehended along with co-accused Hari Sahni, from whom recovery of 5 kgs of Charas was effected. He however submits that the petitioner was nominated as an accused on the basis of disclosure statement suffered by co-accused Hari Sahni and thereafter, when the petitioner was arrested, recovery of 170 grams of Charas was effected from him. 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 informed the Court that the petitioner has never been involved in any other criminal case much less under the NDPS Act. It has also been submitted that charges have been framed on 05.07.2023 and the next date of hearing fixed before the trial Court is 30.08.2023 when the prosecution evidence is likely to commence.

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

5. The petitioner came to be nominated as an accused on the basis of disclosure statement suffered by co-accused Hari Sahni, from whom recovery of 5 kgs of Charas was effected. The investigation in the case in hand is complete and the next date of hearing fixed before the trial Court is 30.08.2023 for prosecution evidence. Hence, the trial shall take considerable time to conclude. The petitioner, as not disputed by the learned State counsel, is not involved in any other criminal case. 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.

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 11, 2023

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No