

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

CRM-M No.39783 of 2023
Date of decision: 22nd August, 2023

Kaliya @ Kala

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Bhisham K. Majoka, Advocate for the petitioner.
Ms. Trishanjali Sharma, Dy. Advocate General, Haryana
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.104 dated 25.05.2022 under Sections 20, 27-A of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Jakhal, District Fatehabad.

2. Learned counsel for the petitioner inter alia submits that admittedly, the petitioner was not even accompanying the co-accused, from whom the alleged recovery of 40 kgs of Ganja was effected, but was nominated as an accused subsequently, on the basis of a disclosure statement allegedly suffered by the two co-accused, who stated that the recovered contraband had been procured from the petitioner. He further submits that even thereafter, when the petitioner was arrested by the police, no recovery of any contraband was effected from him and rather,

only a recovery of ₹ 1000/- was shown to have been effected from him. Learned counsel therefore, submits that firstly the evidence, i.e. the disclosure statement, on the basis of which the petitioner has been arrayed as an accused, does not have much evidentiary value and secondly, the petitioner not being involved in any other criminal case, much less under the NDPS Act, lends credence to his false implication in the case in hand. A prayer has therefore, been made for extending the concession of bail to the petitioner, who has now been in custody since 29.05.2022, 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 controverted that the petitioner was nominated as an accused on the basis of a disclosure statement suffered by co-accused, however, she submits that the fact remains that a recovery of ₹ 1000/- i.e. the drug money, was effected from him. She, on further instructions, has not disputed that the petitioner is not involved in any other criminal case much less under the NDPS Act.

4. On a pointed query put to the learned State counsel as to what was the stage of trial, she has informed on instructions, that out of 18 prosecution witnesses cited, 4 stand examined and the next date of hearing fixed before the trial Court is 19.10.2023.

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

6. The petitioner has now been in custody for more than 1 year, having been arrested on 29.05.2022. It has not been disputed by the learned State counsel that the petitioner does not have any criminal antecedents and further the trial will take considerable time to conclude, as 14 prosecution witnesses still remain to be examined. 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.

(MANJARI NEHRU KAUL)
JUDGE

August 22, 2023
rps

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