

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

239

2023:PHHC:111126

CRM-M-40501-2023

Date of decision: August 24th, 2023

Paramjit Singh @ Pamma

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Gursimran S. Bawa, Advocate
for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.13 dated 04.04.2010 under Sections 15, 25, 29 of the NDPS Act, 1985 registered at Police Station State Special Operation Cell, Amritsar.

While drawing the attention of this Court to the FIR in question, which has been annexed as Annexure P-1, learned counsel for the petitioner submits that pursuant to a secret information received, co-accused Jaspal Singh and Kashmir Singh were nabbed by the police and recovery of 220 kgs of poppy husk was effected from the canter in which they were travelling. Learned counsel submits that there was no secret information received against the petitioner and still further, it was also a matter of record that the petitioner was not even accompanying the two co-accused when they were apprehended by the police. He submits that subsequently disclosure statement was made by the owner of the canter namely Subhash, who stated that the vehicle from which the recovery had been effected had been sold to the petitioner and co-accused Kashmir Singh. However, subsequently an affidavit was collected during investigation, wherein it stood reflected that the vehicle in question had

been sold only to accused Kashmir Singh and not to the petitioner. Learned counsel, therefore, submits that other than this, there is no material much less cogent to connect the petitioner with the recovery of 220 kgs of poppy husk. It has thus been prayed that in the aforementioned facts and circumstances, the petitioner be admitted to bail as only one prosecution witness out of 11 has been examined so far and the trial is thus unlikely to conclude in the near future.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not disputed that the petitioner was not accompanying the co-accused at the relevant time when the alleged recovery of 220 kgs of poppy husk was effected from them. He has also not been able to dispute, on instructions from ASI Deepak Kumar, that an affidavit of Subhash, previous owner of the canter, was indeed collected during investigation, wherein it stood reflected that said Subhash had clearly deposed that the vehicle in question i.e. the canter had been sold to co-accused Kashmir Singh and not to the present petitioner.

On a pointed query put to the learned State counsel as to whether recovery of any narcotic substance or contraband was effected from the petitioner subsequent to his arrest on 18.04.2022, he, on instructions has replied in the negative and submitted that in fact the petitioner was undergoing sentence for 20 years in the State of Jammu and Kashmir in another case registered against him under the NDPS Act and he was being produced before the trial Court on production warrants.

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

As not disputed by the learned State counsel, no recovery of any contraband much less poppy husk was effected from the petitioner and the petitioner had been nominated only in a disclosure statement

suffered by Subhash, previous owner of the vehicle, from which the recovery of the contraband was effected. The trial is unlikely to conclude in the near future as only one prosecution witness stands examined.

In the facts and circumstances as enumerated hereinabove, 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.

August 24th, 2023
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No