

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

221/3

2023:PHHC:121114

CRM-M-41746-2023

Date of decision: September 14th, 2023

Harnand Singh alias Nanda

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. R.S. Rai, Senior Advocate
with Mr. Puneet Bali and Ms. Eknoor Kaur, Advocates
for the petitioner.

Ms. Trishanjali Sharma, Deputy Advocate General,
Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.0190 dated 05.07.2022 under Sections 201 IPC, Section 15 (c), 27 (a), 29 of the NDPS Act registered at Police Station Garhi, District Jind.

2. Learned senior counsel, *inter alia*, contends that a secret information was received by the police qua co-accused Dharamender Maratha and Naveen Maratha (driver/owner and cleaner respectively of truck No.RJ27GB-9760), transporting huge quantity of poppy husk from Rajasthan to Punjab, after concealing it in the above-mentioned truck. On being intercepted, a recovery of 3 quintals, 60 kgs of poppy husk was allegedly effected from the truck on 05.07.2022. On being nabbed, accused Dharamender Maratha suffered a disclosure statement, wherein he nominated only one person Pushkar Lal Ahir and disclosed that it was at his behest that the contraband had been loaded into the truck. Admittedly, while recording the disclosure statement, no reference much less by way

of any whisper had been made to the petitioner. Thereafter, on 08.07.2022 i.e. after three days, another disclosure statement was made by co-accused Dharmender Maratha, wherein for the first time, he introduced the name of the petitioner and stated that he had been directed to hand over four bags out of the recovered contraband to the petitioner. A similar statement was also allegedly made by co-accused Naveen Maratha. On 01.08.2022, the police raided the house of the petitioner and took him to the Police Station, where he was extensively interrogated, however, he was subsequently released by the police as no cogent material came to the fore qua his involvement in the crime in question. Thereafter, accused Pushkar Lal Ahir was arrested and he suffered a disclosure statement, wherein he disclosed that the recovered contraband was to be given to Shinderpal, Bittu and Nikku. In support, learned senior counsel has drawn the attention of this Court to Annexure P-4, which is his disclosure statement. Learned senior counsel has submitted that strangely in the second disclosure statement suffered by Pushkar Lal Ahir, he alleged that out of the recovered contraband, 20 kgs of poppy husk was also to be supplied to the petitioner. Still further, as per the disclosure statement of Pushkar Lal Ahir (Annexure P-4), it had been allegedly stated by him that the contraband was to be delivered to the petitioner for his personal consumption as he was suffering from some medical ailment, which is on the fact of it, highly unbelievable. Learned senior counsel has thus asserted that on the face of it, the version brought forth by the prosecution cannot be digested in view of the fact that the first disclosure statement suffered by co-accused was completely silent qua the petitioner and it was only subsequently in the second disclosure statement suffered by the co-accused, the name of the petitioner cropped up. It has also been submitted that the evidentiary value of such disclosure statement is of an

extremely weak nature and it all needs to be appreciated in the light of the petitioner having clean antecedents and not being involved in any case under the NDPS Act. Learned senior counsel has further submitted that the petitioner has been in custody since 27.06.2023 and investigation in the case in hand is complete, thus, his further incarceration would serve no useful purpose.

3. *Per contra*, learned State counsel while opposing the prayer made by learned senior counsel for the petitioner, has not been able to dispute the submissions made by the counsel opposite qua the petitioner having been nominated as an accused in the second disclosure statement made by Pushkar Lal Ahir and therein also, it had been stated that 20 kgs out of the total contraband was to be delivered to the petitioner for his personal consumption as he was suffering from some medical ailment. It has not been disputed by the State that the petitioner is not involved in any other case under the NDPS Act.

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

5. The petitioner has been in custody since 27.06.2023. The investigation in the case in hand is complete. Charges have, however, not yet been framed. Thus, there is no likelihood of the trial concluding in the near future.

6. In the facts and circumstances as enumerated hereinabove, coupled with the fact that the petitioner is not involved in any other case much less under the NDPS Act, 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 say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

September 14th, 2023
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No