

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

229

CRM-M-44868-2023

Date of decision: 14.09.2023

Gaurav @ Gaurav Kumar @ Mannu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Amandeep Singh Manaise, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.26 dated 22.03.2023 under Sections 21(b), 27-A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') of the IPC registered at Police Station Tibber, District Gurdaspur.

2. Learned counsel for the petitioner submits that as per the case of the prosecution itself no recovery of any contraband much less heroin was effected from the possession of the petitioner. It has been further submitted that a recovery of 6 grams of heroin along with ₹10,000/- (drug money) was allegedly effected from the conscious possession of the co-accused who at the relevant time was walking alongside the petitioner. Learned counsel submits that recovery effected from the co-accused was marginally higher than 'small quantity'. Learned counsel has, therefore, submitted that in the facts and circumstances, since no recovery of any contraband was effected from

his conscious possession, it was evident that he had been falsely implicated in the case in hand. It has been further submitted that after the petitioner was arrested on 22.03.2023 investigation had been completed and final report under Section 173(2) of the Cr.P.C. also presented before the Trial Court, however, charges had not yet been framed, hence, there was no likelihood of the trial concluding in the near future.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from ASI Balwinder Singh, has not been able to dispute that no recovery of any contraband was effected from the petitioner. However, he submits that at the relevant time, the petitioner was accompanying the co-accused from whom the contraband was effected and still further the petitioner was carrying a weighing scale with him which clearly hinted towards his active participation in the crime in question along with the co-accused. It has also been submitted that the petitioner is involved in another criminal case under the NDPS Act, however, in the said case, as well, the recovery effected was just 6 grams of heroin, which has been classified as non-commercial under the NDPS Act. Learned State counsel has on further instructions informed the Court that the next date fixed before the Trial Court is 25.09.2023, when charges are likely to be framed.

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

5. The petitioner has been in custody since 22.03.2023.

Investigation in the case in hand is complete. As not disputed by the

learned State counsel, no recovery of any contraband much less heroin was effected from the personal search of the petitioner. In the facts and circumstances as enumerated hereinabove, 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.

14.09.2023

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(MANJARI NEHRU KAUL)
JUDGE

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