

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-45875-2023

Date of decision: 19.09.2023

Davis Kapoor alias Deep

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Kulwinder Singh, Advocate
for the petitioner.

Mr. Pankaj Khullar, AAG, 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.103 dated 17.07.2023 under Sections 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Meharban, District Ludhiana.

2. Learned counsel for the petitioner inter alia contends that the petitioner has been in custody since 19.07.2023 for indulging in the sale of ICE. He submits that recovery of 40 grams (non-commercial) ICE along with an electronic weighing scale was allegedly recovered from him. He further submits that as per the case of the prosecution, the petitioner had been selling the contraband while sitting outside his own house which on the face of it comes across as being highly improbable that he would have openly been selling the recovered contraband. It has been urged that since the investigation is complete and the alleged recovery is not classified as commercial but small quantity under the NDPS Act, he be extended the concession of bail.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not disputed that the alleged recovery effected from the petitioner i.e. 40 grams of ICE does not fall under the commercial quantity, however, he submits that the recovery of a weighing scale along with 30 plastic envelopes was effected from the possession of the petitioner from which it could be clearly discerned that he had been selling the contraband to various persons. It has also been submitted that the petitioner was earlier also involved in another case under the NDPS Act, however, concededly he stands acquitted in the same. Learned State counsel has not disputed that investigation in the case in hand is complete as challan stands presented, however, he submits that charges have not yet been framed and are likely to be framed on the next date of hearing i.e. 25.09.2023.

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

5. In the facts and circumstances as enumerated hereinabove coupled with the fact that investigation is complete and the recovery allegedly effected falls within small quantity, this Court deems it fit to extend the concession of bail to the petitioner as there is no likelihood of the trial concluding in the near future.

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.

19.09.2023 (MANJARI NEHRU KAUL)
Vinay JUDGE

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