

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-46239-2023

Date of decision: 20.09.2023

Raman Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Navnika Tuteja, Advocate for
Mr. Rajiv Kumar Saini, 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.45 dated 05.07.2023 under Sections 21(b) and 27(a) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Behrampur, District Gurdaspur.

2. Learned counsel for the petitioner inter alia contends that a false recovery of 6.5 grams of heroin has been planted upon the petitioner along with drug money in the sum of approximately ₹1 lakh. Learned counsel submits that a false case having been planted upon the petitioner is evident from the fact that the mandatory provisions of the NDPS were not adhered to as no Gazetted Officer was called to the spot to carry out the search of the petitioner. She has further submitted that the petitioner has been in custody since 05.07.2023 and investigation stands completed, hence in the circumstance, further incarceration of

the petitioner would serve no useful purpose moreso, since he has no criminal antecedents.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from ASI Balkar Singh, has not been able to dispute that the recovery effected i.e. 6.5 grams of heroin has been classified as small quantity under the NDPS Act and it has also not been disputed that the alleged recovery was not effected in the presence of any Gazetted Officer. However, he submits that it was a case of chance recovery and the petitioner had consented to being searched by the police party itself, which nabbed the petitioner at the spot.

4. On a pointed query, put to the learned State counsel as to whether the petitioner is involved in any other criminal case, he on instructions, has replied in the negative.

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

6. The petitioner was allegedly nabbed at the spot carrying 6.5 grams of heroin which has been classified as small quantity under the NDPS Act. The petitioner is not stated to be involved in any other criminal case much less under the NDPS Act. Investigation in the case in hand is complete and as many as 09 witnesses have been cited by the prosecution. There is no likelihood of the trial concluding in the near future as even charges have not yet been framed. 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

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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.

20.09.2023 (MANJARI NEHRU KAUL)
Vinay JUDGE

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