

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

210

CRM-M-48123-2023

Date of decision: 24.11.2023

Prabhjit Singh @ Prabh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vivek Thakur, Advocate and
Mr. Prakshit Thakur, Advocate
for the petitioner.

Mr. Mohit Kapoor, Addl. A.G., 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.97 dated 21.08.2022 under Sections 21 of the NDPS Act (Section 29 of the NDPS Act added lateron) registered at Police Station Navi Baradari, District Jalandhar.

2. This is the second petition filed by the petitioner after the previous petition, seeking similar relief had been withdrawn by him on 05.05.2023. In response to a query regarding any material change in circumstances which would warrant acceptance of the present petition, the petitioner has highlighted his long custody period of little more than one year and coupled with the fact that only two prosecution witnesses had been examined so far.

3. Learned counsel for the petitioner has further contended that the petitioner has been falsely implicated in the case in hand for having been found in possession of 255 grams of heroin. It has been

further submitted that given the clean antecedents of the petitioner, it is evident that he is innocent. A prayer has, therefore, been made for acceptance of the instant petition as the likelihood of the trial concluding in the near future is remote.

4. Per contra, learned State counsel while opposing the prayer and submissions made by counsel opposite has controverted the submissions made by the counsel for the petitioner qua the unlikelihood of the trial being concluded in the near future. It has been submitted on instructions, that after the petitioner was arrested on 21.08.2022, 02 out of the 12 prosecution witnesses have been examined and the trial has been proceeding at a reasonably good pace; there is every likelihood that the trial would be concluded very shortly. Learned counsel for the State has further submitted that the police intercepted the petitioner who was riding a motorcycle along with co-accused Avtar Singh @ Kala. On suspicion, after complying with the mandatory provisions of the NDPS Act, the search of the motorcycle on which both the petitioner and the co-accused were travelling was carried out and a recovery of 255 grams of heroin was effected from the tool box of the motorcycle. It has been submitted that during investigation it had come to light that the petitioner was part of a drug mafia. Learned State counsel has, therefore, vehemently opposed the grant of regular bail to the petitioner.

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

6. As submitted by the learned State counsel the recovery of 255 grams of heroin (commercial quantity) was effected by a police

party from the tool box of the motorcycle which was being driven by none other than the petitioner. There was due compliance made of the mandatory provisions of the NDPS Act and it was only thereafter the search was carried out. Prima facie, it comes across that the petitioner was thus in conscious possession of the contraband so effected from his motorcycle. In the facts and circumstances as enumerated hereinabove, this Court is not inclined to extend the concession of bail to the petitioner.

7. Accordingly, the instant petition is dismissed.

8. 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.

24.11.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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