

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.49597 of 2023
Date of decision: 6th October, 2023

Rajesh Kumar

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Harsh Jain, Advocate for
Mr. Gitesh Sharma, Advocate for the petitioner.
Mr. Karan Jindal, Asst. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.59 dated 26.03.2023 under Sections 22B/22C/29-61-85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Raipur Rani, District Panchkula.

2. Learned counsel for the petitioner inter alia submits that on 26.03.2023, accused Mandeep was apprehended by the police and recovery of 780 tablets of Lonotil, 165 tablets of Alprazolam and 20 tablets of Alprasaft was effected. Thereafter, when accused Mandeep was interrogated, he suffered a disclosure statement naming co-accused Deepak as being the person, from whom he had procured the recovered intoxicant tablets. When accused Deepak was nabbed by the police, recovery of 1020 tablets of Lonotil and 900 tablets of Alprazolam was

effected. Learned counsel submits that it was in the second disclosure statement of co-accused Deepak, the petitioner came to be nominated as an accused. He submits that the evidentiary value of such disclosure statement, on the basis of which the petitioner has been arraigned as an accused, is of a weak nature and all this needs to be appreciated in the wake of no recovery having been effected from him when he was arrested and the fact that he is not involved in any other criminal case, much less under the NDPS Act. Learned counsel has thus, prayed for extending the concession of bail to the petitioner, as his further incarceration would serve no useful purpose.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has not been able to controvert that the petitioner came to be arraigned as an accused on the basis of second disclosure statement suffered by co-accused Deepak, from whom recovery of contraband falling under the commercial quantity was effected. It has also not been disputed that when the petitioner was apprehended, no recovery of any contraband was effected from him or even that he was not involved in any other case under the NDPS Act. Learned State counsel has further submitted that since challan has not yet been presented, prayer of the petitioner for grant of the concession of bail to him be declined.

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

5. The petitioner has now been in custody for the last about 8 months, having been arrested on 26.03.2023. As not disputed by the learned State counsel, the petitioner is not involved in any other case under the NDPS Act and still further, on being arrested no recovery of any contraband was effected from him. In the facts and circumstances, as enumerated hereinabove, this Court thus deems it fit to extend the concession of bail to the petitioner. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. 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.

6. Needless to add here, in case the petitioner misuses the concession of bail, the State would be at liberty to approach this Court for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)
JUDGE

October 6, 2023

rps

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