

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.52300 of 2022

Date of decision: 25th January, 2023

Hira Singh @ Bagga

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. P.S. Sekhon, Advocate for the petitioner.

Mr. Ramdeep Pratap Singh, Sr. DAG, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner in the instant petition filed under Section 439 Cr.P.C. is seeking concession of regular bail in case bearing FIR No.105 dated 26.07.2022 under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Kot Ise Khan, District Moga.

Learned counsel for the petitioner inter alia submits that the alleged recovery of 54 kg of poppy husk was effected from an open place adjoining the house of the petitioner and admittedly no recovery of contraband much less poppy husk was effected from his house. He further submits that the petitioner has now been in custody since 26.07.2022 and there is no likelihood of the trial concluding in the near future, as prosecution evidence has not yet commenced. He also submits that since the petitioner is not involved in any other case, much less under NDPS Act, his further incarceration in the aforesaid circumstances would serve no useful purpose.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not been able to dispute that the alleged recovery of 54 kg of poppy husk was not effected either from the conscious possession of the petitioner or even from his house, but from an open field adjoining his house. He has also not disputed on instructions that the petitioner is not involved in any other criminal case, much less under the NDPS Act.

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

The petitioner has now been in custody since 26.07.2022 and there is no likelihood of the trial concluding in the near future as prosecution evidence has not yet commenced. The alleged recovery is marginally higher than the minimum prescribed under the commercial quantity of 50 kg poppy husk. In the facts and circumstances, as enumerated hereinabove, this Court 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 contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

January 25, 2023
rps

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