

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

213

**CRM-M-55584-2022
Date of decision: 12.01.2023**

Nishan Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Kulbhushan Raheja, Advocate
for the petitioner.

Mr. Ramdeep Partap Singh, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

This is the first petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.58 dated 10.05.2022 lodged under Sections 18/25/29/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Kulgari, District Ferozepur.

While inviting the attention of this Court to the FIR in question which has been annexed as Annexure P-1, which was registered pursuant to a secret information received by the police, learned counsel for the petitioner submits that no doubt the petitioner was named in the FIR, however, he was not even present much less apprehended at the spot when the alleged recovery of 10 kgs. of opium was effected from co-accused. He further submits that similarly situated co-accused namely Kuldeep Singh who too was named in the secret information and was not even present or apprehended like the petitioner at the time of the alleged recovery, had since been extended the

concession of anticipatory bail vide order dated 16.11.2022 (Annexure P-8). Learned counsel submits that the false implication of the petitioner in the FIR in question finds further credence from the fact that no recovery of any contraband was effected from him. A prayer has, therefore, been made to extend the concession of bail to the petitioner as he has now been in custody since 22.08.2022 and till date only charges have been framed.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite on instructions, has not been able to dispute that neither was the petitioner apprehended at the time of alleged recovery 10 kgs of opium from the co-accused nor any recovery of contraband effected subsequently from his possession. Learned State counsel has also conceded on instructions that the case of the petitioner is at par with that of co-accused Kuldeep Singh, who was extended the concession of anticipatory bail by a Coordinate Bench of this Court vide order dated 16.11.2022. Learned State counsel has, however, submitted that the petitioner was involved in four other cases under the NDPS Act, however, he stands acquitted in all those cases and no other criminal case is pending against him as on date.

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

The petitioner has now been in custody since 22.08.2022 and prosecution evidence has not yet commenced. As many as 18 prosecution witnesses have been cited. Hence, the trial shall take considerable time to conclude. In addition, as also apprised by the learned State counsel the petitioner was neither apprehended at the spot

when the alleged recovery of opium was made nor any other contraband effected from him subsequently.

In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner. 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.

12.01.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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