

Neutral Citation No.2023:PHHC:161583

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-56681 of 2023 (O&M)

Date of decision : 15.12.2023

...

Raghubir Singh @ Lally

.....Petitioner

vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. J.S. Bhandari, Assistant Advocate General,
Punjab, for the respondent/State

...

MANJARI NEHRU KAUL, J. (ORAL)

This is second petition filed by the petitioner under Section 439 Cr.P.C., seeking concession of regular bail in case FIR No.47 dated 26.3.2023 under Section 21 of Narcotic Drugs and Psychotropic Substances Act, 1985, (hereinafter referred to as 'the NDPS Act') registered at Police Station Navi Baradari, District Jalandhar, after the previous petition, seeking similar relief, was dismissed as withdrawn on 20.7.2023

2. Learned counsel for the petitioner submits that on the face of it a false and fabricated case has been planted upon the petitioner, which is evident from the following facts :-

(i) It was allegedly a case of chance recovery, wherein the petitioner alongwith co-accused were apprehended by the police alongwith 400 grams of heroine. However, the offer given for personal search, as mandated under Section 50 of the NDPS Act, was a defective one as it was only for getting the search conducted in the presence of some Magistrate.

(ii) It was allegedly a case of chance recovery, however, both the recovery memo as well as, the notice given under Section 50 of the NDPS Act, already had the number of the FIR recorded therein, which clearly indicated that a false case had been planted upon the petitioner.

It has been further submitted that the petitioner has now been in custody since 26.3.2023 and there is no likelihood of the trial concluding in the near future, as , 9 prosecution witnesses still remain to be examined. Hence the petitioner be enlarged on bail.

3. Per contra, learned State counsel while vehemently opposing the prayer and submissions made by the counsel opposite, on instructions of ASI Balkaran Singh, has submitted that it was a case of chance recovery, wherein the petitioner alongwith the co-accused were apprehended with huge quantity of heroin; classified as commercial under the NDPS Act. An offer of search was indeed

given to the petitioner for getting himself searched from a Magistrate, however, the petitioner himself consented to get himself searched by the Investigating Officer himself. In the circumstances even if no specific offer had been given for getting his search carried out from a Gazetted Officer, it would not adversely affect the case of the prosecution.

4. Learned State counsel has submitted that the FIR number in the recovery memo etc. was filled in after the recovery had been effected. Learned State counsel has further submitted that the question of a false and fabricated case having been planted upon the petitioner just does not arise, rather the petitioner is a man of criminal antecedents, as he has been involved in 18 other criminal cases, including 7 under the NDPS Act. Learned State counsel has also submitted that it is a matter of record that the petitioner stands convicted in 3 of the cases, which had previously been registered against him under the NDPS Act. Learned State counsel has still further submitted that after the petitioner was arrested on 26.3.2023, the trial had been proceeding at a reasonably good pace as now only 9 witnesses remained to be examined. Since the remaining witnesses were all official witnesses, the trial would not take much time to conclude.

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

6. In the facts and circumstances, as enumerated hereinabove, particularly, the huge recovery effected from the petitioner and coupled with his criminal antecedents, the stage of

trial, this Court does not deem it fit to accept his prayer for being released on regular bail.

7. The petition as such 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.

15.12.2023
chugh

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking / reasoned Yes / No

Whether reportable Yes / No