

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

215

CRM-M-60571-2022 (O&M)

Date of decision: 08.08.2023

Payara Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. Parminder Singh Sekhon, Advocate  
for the petitioner.

Mr. Rahul Mohan, Sr. DAG, Haryana.

\*\*\*\*

**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.213 dated 29.08.2022 under Sections 22(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Sadar Tohana, District Fatehabad.

2. Learned counsel for the petitioner inter alia contends that the petitioner has been falsely implicated in the case in hand and recovery of 685 tablets of Tramadol, Alprazolam and Etizolam was allegedly effected from him in a case of chance recovery. Learned counsel submits that though all the recovered tablets i.e. Tramadol, Alprazolam and Etizolam had different salts, however, they had been erroneously weighed jointly as a result of which the total weight came to be 289 grams which was just marginally higher than the minimum prescribed under the commercial quantity i.e. 250 grams. Learned counsel further submits that the petitioner has clean antecedents as he is

not involved in any other criminal case much less a case under the NDPS Act. It has also been submitted that it is a matter of record that the medical condition of the petitioner has been deteriorating by the day and there is a likelihood that on account high sugar levels, one of his legs could be amputated. Learned counsel has, thus, prayed that the petitioner be extended the concession of bail as his further incarceration would not serve any useful purpose moreso, since investigation in the case in hand is complete and final report under Section 173(2) of the Cr.P.C. stands presented.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite on instructions, has submitted that the recovery effected from the petitioner of 289 grams of tablets fell under the commercial quantity. It has also been submitted that the next date fixed before the Trial Court is 13.09.2023 when charges are likely to be framed. Learned State counsel on further instructions has, however, not been able to dispute that the petitioner is not involved in any other criminal case much less a case under the NDPS Act. Still further, learned State counsel has also not been able to controvert that the petitioner is indeed suffering from multiple medical ailments including diabetic left foot with gangrene post operative debridement (MAMC Agroha). Learned State counsel on instructions has, however, submitted that the condition of the petitioner at present is stable though he still has severe pain and difficulty in walking.

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

5. The petitioner as not disputed by learned State counsel has

no criminal antecedents and has been in custody since 29.08.2022. Charges have not yet been framed, hence, the trial is unlikely to conclude in the near future. Furthermore, as is also evident from the reply filed by way of affidavit of Shakir Hussain, HPS, Deputy Superintendent of Police, Tohana, District Fatehabad, the petitioner is suffering from multiple health ailments. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

6. 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.

7. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

08.08.2023

Vinay

(MANJARI NEHRU KAUL)  
JUDGE

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