

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

218

2024:PHHC:060547
CRM-M-559-2024
Date of decision: May 2nd, 2024

Bahadur Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Ms. Kamlesh, Advocate
for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.102 dated 02.08.2023 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Amargarh, District Malerkotla.

2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the instant case for having been found in possession of 52 kilograms of poppy husk (marginally higher than the minimum classified as commercial under the Act); she submits that though as per the case of the prosecution, a secret information was received qua the involvement of the petitioner and the co-accused in drug trafficking, however, there had been non-compliance of the mandatory provisions of the NDPS Act, in particular Section 42 of the Act. It has been submitted that it is a matter of record that the petitioner is not involved in any other criminal case much less under the NDPS Act and hence, it further lends credence to his false implication in the

present case. Learned counsel has still further submitted that since investigation is complete, challan stands presented and even charges framed, his further incarceration would serve no useful purpose as there is no likelihood of the trial concluding in the near future, more so when 17 witnesses have been cited by the prosecution.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not disputed that the alleged recovery from the petitioner and co-accused was 52 kilograms of poppy husk. Learned State counsel has placed on record the custody certificate of the petitioner, wherein it stands reflected that he is not involved in any other criminal case, however, learned State counsel, on instructions from ASI Sukhchain Singh, has refuted the submissions made by the counsel opposite qua the mandatory provision of the NDPS Act having not been complied with. Learned State counsel on further instructions has informed the Court that recording of the prosecution evidence is due to commence on 30.05.2024.

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

5. In the facts and circumstances as enumerated hereinabove and as also not disputed by the learned State counsel, the petitioner, who is not involved in any other criminal case much less under the NDPS Act, be admitted to bail to the satisfaction of the trial Court/ Duty Magistrate concerned as the trial would taken considerable time to conclude. Accordingly, the instant petition is allowed.

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

May 2nd, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No