



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

221

CRM-M-278-2024

Date of decision: 23.07.2024

Sarwar Khan alias Babbi

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Kamlesh, Advocate
for the petitioner.

Mr. Navdeep Singh, DAG, Punjab.

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.0102 dated 02.08.2023 under Sections 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Amargarh, District Malerkotla.

2. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case, for having been found in possession of 52 kgs of poppy husk which is just marginally higher than the minimum classified as commercial under the NDPS Act. She has further submitted 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, mandatory provisions, including Section 42 of the NDPS Act, had not



been properly complied with. It has still further been submitted that the petitioner has clean antecedents as it is a matter of record that he is not involved in any other criminal case much less under the NDPS Act. Learned counsel has lastly contended that since investigation in the present case is complete and charges also stand framed, further incarceration of the petitioner would serve no useful purpose as the prosecution evidence is likely to commence on 22.08.2024.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from Inspector Manjit Singh, has not disputed that the recovery allegedly effected from the petitioner and the co-accused was 52 kgs of poppy husk which is just marginally higher than the minimum classified as commercial under the NDPS Act. It has also not been disputed by the learned State counsel on instructions that the petitioner is not involved in any other criminal case much less under the NDPS Act. However, learned State counsel has controverted the submissions made by the counsel opposite qua non-compliance of the mandatory provisions of the NDPS Act.

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 on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned, as none of

CRM-M-278-2024

the 17 witnesses cited by the prosecution have been examined till date and there is no likelihood of the trial concluding in the near future. 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 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.

23.07.2024

(MANJARI NEHRU KAUL)
JUDGE

Vinay

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No