

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

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2024:PHHC:021986

CRM-M-246-2024

Date of decision: February 15, 2024

KALA SINGH @ KALLU SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Vikas Gupta, Advocate
for the petitioner.

Mr. Navdeep Singh, Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.40 dated 19.05.2021 (Annexure P-1) under Sections 21(C) and 29, 25 and 27-A (added later on) of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sarai Amanat Khan, District Tarn Taran.
2. Learned counsel for the petitioner *inter alia* contends that even as per the case of the prosecution, no recovery of any contraband, much less of heroin, was effected from the petitioner. He came to be nominated as an accused in the case in hand only on the ground that co-accused Manpreet Singh was found riding his motorcycle when he was apprehended by the police along with 500 grams of heroin. Learned counsel submits that the petitioner has now been in custody since 11.08.2023; not only the investigation in the case in hand is complete as the challan stands presented but even charges stand framed. It has been further submitted that the petitioner has clean antecedents as he is not involved in any other criminal case, much less under the NDPS Act.

3. Learned counsel has also asserted that on the fateful day, the motorcycle had been borrowed by the co-accused Manpreet Singh and he had merely in good faith, given him the same.

4. *Per contra*, learned State counsel, while opposing the prayer and submissions made by the learned counsel for the petitioner, on instructions, has not been able to dispute that no recovery, much less of heroin, was effected from the petitioner when he was arrested on 11.08.2023. He has also not disputed that the petitioner stands arrayed as an accused only on account of his vehicle i.e. motorcycle being used by the co-accused for carrying 500 grams of heroin.

5. On a pointed query put to the learned State counsel as to whether the petitioner has any criminal antecedents, he on instructions, has replied in the negative.

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

7. As not disputed by the learned State counsel, the petitioner has clean antecedents and no recovery of any contraband was effected from him. The trial is unlikely to conclude in the near future as 14 witnesses have been cited by the prosecution, however, not even a single witness had been examined till date.

8. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner as the trial would take considerable time to conclude. Accordingly, the instant petition is allowed; the petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned.

9. 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.
10. Needless to add here, in case the petitioner is found misusing the concession of bail, the State would be at liberty to approach this Court to seek cancellation of bail to him.

February 15, 2024
Jaspreet Kaur

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No