

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

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2024:PHHC:004256

CRM-M-755-2024

Date of decision: January 12th, 2024

Omkar Singh alias Oma

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ruhani Chadha, Advocate
for the petitioner.

Mr. A.P.S. Tung, Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.68 dated 05.08.2022 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 29 of the NDSP Act added later on) registered at Police Station Hathur, District Ludhiana Rural.

2. Learned counsel for the petitioner submits that the petitioner was nominated as an accused on the basis of a disclosure statement suffered by Labh Singh alias Labha, who too was named as an accused in a disclosure statement suffered by co-accused Gurpreet Singh alias Gopi from whom a recovery of 4320 tablets of Tramadol was effected pursuant to a secret information. As per the case of the prosecution, on being arrested, Labh Singh named the petitioner as being the supplier of 960 tablets of Tramadol, which were allegedly recovered from him, however, it is a matter of record that as per the FSL report, the salt found in the recoveries effected from Labh Singh was

Chlorpheniramine Maleate, which has not been classified as a narcotic substance under the NDPS Act. In support, learned counsel has drawn the attention of this Court to the FSL report (Annexure P-4). Attention of this Court has also been drawn to Annexure P-5, wherein on the basis of the FSL report received i.e. Annexure P-4, Labh Singh alias Labha had been discharged. Learned counsel submits that while on one hand, said Labh Singh on whose disclosure statement, the petitioner had been nominated as an accused, had been discharged, however, strangely on the other hand, charges had been framed against him without there being any evidence on record to link him with the alleged recoveries or even with accused Gurpreet Singh alias Gopi from whom 4320 tablets of Tramadol were effected.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not been able to dispute the submissions made by the counsel opposite with respect to the FSL report (Annexure P-4) and the discharge of accused Labh Singh in the instant case. The factum of the name of the petitioner having surfaced only in the disclosure statement of the discharged Labh Singh has also not been disputed by the learned State counsel. However, learned State counsel submits that the petitioner is a man of criminal antecedents as he is involved in some other criminal cases under the NDPS Act.

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

5. This Court deems it fit to extend the concession of bail to the petitioner. The contentions of learned State counsel that the petitioner is a man of criminal antecedents cannot come in the way of

this Court from extending the concession of bail to him in the instant case, in the aforementioned facts and circumstances.

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 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.

January 12th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No