

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

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2024:PHHC:058046

CRM-M-5389-2024

Date of decision: April 29th, 2024

Sukhchain Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Manjinder Singh Saini, Advocate
for the petitioner.

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

MANJARI NEHRU KAUL, J. (ORAL)

This is a second petition filed by the petitioner seeking the concession of regular bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.79 dated 11.05.2023 under Sections 21 (Section 29 added later on) of the NDPS Act, registered at Police Station City, Ropar.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been nominated as an accused in the present case on the basis of a disclosure statement allegedly suffered by co-accused Charanpreet Singh from whom a recovery of 260 grams of heroin was allegedly affected. Learned counsel submits that the evidentiary value of the disclosure statement on the basis of which he has been arraigned as an accused is of a weak nature; furthermore when the petitioner was arrested on 19.10.2023, no recovery of any contraband much less heroin was affected from him. It has been further submitted that since the investigation in the case in hand is complete, charges stand framed and two witnesses out of the 14 cited by the prosecution stand examined,

further incarceration of the petitioner in the instant case would serve no useful purpose as trial would take considerable time to conclude. Learned counsel has very fairly submitted that prior to the registration of the present FIR, he admittedly was involved in two other cases under the NDPS Act, however, it is a matter of record that in one of the two cases, he already stands acquitted while in the other case registered under the NDPS Act, the alleged recovery affected from him was just 10 grams of heroin. Learned counsel has thus prayed for being enlarged on bail in the light of the role attributed to him in the present FIR.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Jujhar Singh, has submitted that no doubt, no recovery of any contraband had been affected from the petitioner when he was arrested on 19.10.2023 pursuant to a disclosure statement suffered by co-accused Charanpreet Singh, however, in his disclosure statement, co-accused Charanpreet Singh had categorically stated that the recovered contraband had been supplied to him by the petitioner. Learned State counsel on further instructions has not disputed that the petitioner is facing trial only in one other case under the NDPS Act, wherein a recovery of 10 grams of heroin was affected. It has also not been disputed by the learned State counsel that in the other case, which was registered against the petitioner under the NDPS Act, he already stands acquitted.

4. On a pointed query, learned State counsel has informed the Court that the next date fixed before the trial Court is 03.05.2024 when some more prosecution witnesses out of the remaining 12 have been summoned to depose.

5. I have heard learned counsel for the parties and perused the material placed on record.
6. As not disputed, no recovery of any contraband much less heroin was affected from the petitioner in the instant case after he was arrested on 19.10.2023 pursuant to a disclosure statement allegedly suffered by co-accused Charanpreet Singh. The possibility of the trial concluding in the near future is unlikely. In the circumstances, further incarceration of the petitioner would serve no useful purpose.
7. 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.
8. 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.

April 29th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No