



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.9628 of 2024
Date of decision: 16th May, 2024

Hitesh Sharma @ Munna
... Petitioner
Versus
State of Punjab
... Respondent

CORAM: HON’BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sandeep Sharma, Advocate for the petitioner.
Mr. Amit Rana, Sr. Dy. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.134 dated 09.12.2023 under Sections 21(b), 27(a) of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Dhariwal, District Gurdaspur.
2. Learned counsel for the petitioner, inter alia, contends that the petitioner has clean antecedents and is not involved in any other case much less under the NDPS Act; on the fateful day, he was just talking with his friends i.e. the co-accused, when on seeing the police, one of the co-accused Vikramjit, took out 20 grams of Heroin which he was carrying in his pocket, and threw the same on the road. Learned counsel submits that no recovery of any contraband was affected from the petitioner at the relevant time. It has been submitted that the



petitioner has now been in custody for more than five months, however, there is no likelihood of the trial concluding in the near future as even challan has not been presented yet and hence, he cannot be made to languish in custody.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not disputed that no recovery of any contraband was affected from the petitioner. It has also not been disputed that the petitioner has clean antecedents and is not involved in any other criminal case. However, learned State counsel has submitted that from the friends of the petitioner i.e. the co-accused, recovery of 20 grams of heroin along with a weighing scale and ₹4,000/- drug money was affected. It has been further submitted that investigation in the case at hand is complete and the challan would be presented before the trial Court in the very near future.

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

5. As not disputed by the learned State counsel, no recovery of any contraband was affected from the petitioner nor is he involved in any other criminal case much less under the NDPS Act. It is a case of chance recovery, wherein as also not disputed by the learned State counsel, the petitioner was seen standing on the roadside and conversing with the three co-accused.

6. In the facts and circumstances as enumerated hereinabove, 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.

(MANJARI NEHRU KAUL)
JUDGE

May 16, 2024
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No