

2024:PHHC:069472



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

234

CRM-M-12182-2024

Date of decision: May 16, 2024

KALU RAM AHIR

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Ms. Himani Anand, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, Assistant Advocate General, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition is the third petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.190 dated 05.07.2022 (Annexure P-1) under Section 15 of the NDPS Act (and Sections 29, 27A of the NDPS Act and 201 of IPC added later on), registered at Police Station Garhi, District Jind.

2. Learned counsel for the petitioner submits that the petitioner has been in custody for more than a year now, having been arrested on 29.04.2023; after his arrest, not only challan has been presented but even charges framed, however, the possibility of the trial concluding in the near future seems improbable on account of only one prosecution witness out of total 37 having been examined till date. Learned counsel has further submitted that it is evidently a case of false implication of the petitioner as he was not named in the first disclosure statement that was allegedly suffered by co-accused Dharmender Maratha and Naveen Maratha, from whom an alleged recovery of

360 kgs of poppy husk was effected; the petitioner came to be nominated as an



accused in the second disclosure statement made by both the aforementioned co-accused. Learned counsel submits that the evidentiary value of the disclosure statement, on the basis of which the petitioner has been arraigned as an accused, is of a weak nature. On a pointed query as to whether any recovery of contraband was effected from the petitioner, when he was arrested on 29.04.2024, learned counsel has replied in the negative and has further submitted that neither was any disclosure statement made by him, which may have led the investigating agency to effect the recovery of any other narcotic substance from him.

3. Learned counsel further submits that in the circumstances, further incarceration of the petitioner would serve no useful purpose. It has also been brought to the notice of this Court that identically placed co-accused Pushkar Lal Ahir, who too had been nominated as an accused in the second disclosure statement of co-accused Dharmender Maratha and Naveen Maratha, had been extended the concession of bail by this Court vide order dated 02.05.2024.

4. *Per contra*, learned State counsel, while opposing the prayer and submissions made by the counsel opposite, has not disputed the stage of trial and also that the petitioner was nominated as an accused on the basis of the second disclosure statement made by co-accused; it has also not been disputed that no recovery of any narcotic substance was effected from the petitioner on being arrested, however, she has submitted that as per the disclosure statement suffered by the co-accused, the petitioner was a conduit between the supplier and the prospective buyer. On further instructions, this Court has been apprised that the next date fixed before the learned trial Court is 17.07.2024, when some

of the remaining prosecution witnesses have been summoned to testify.



5. I have heard learned counsel for the parties and perused the relevant material placed on record.
6. The petitioner has been in custody since 29.04.2023 and as conceded by the learned State counsel, on instructions, neither was any recovery of contraband effected from him nor was he nabbed at the spot, when the co-accused were arrested; he came to be nominated as an accused in the disclosure statement suffered by the co-accused. Therefore, further incarceration of the petitioner would serve no useful purpose as the trial would take considerable time to conclude.
7. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to allow the instant petition and extend the concession of regular bail to the petitioner.
8. The petition as such is allowed, and the petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate. 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.
9. 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.

May 16, 2024
Jaspreet Kaur

(MANJARI NEHRU KAUL)
JUDGE

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