

2024 : PHHC : 043017

106/268

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

CRM-M No.13717 of 2024

Date of decision: 1st April, 2024

Gurdeep Singh @ Deep @ Baba

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Samay S. Sandhawalia, Advocate for the petitioner.

Mr. Rahul Mohan, Sr. Dy. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

CRM No.13091 of 2024

In view of the averments made in the application and in the interest of justice, the same is allowed as prayed for. Order dated 15.03.2024 (Annexure P-7) is taken on record.

CRM-M No.13717 of 2024

1. The petitioner in the instant second petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.365 dated 16.10.2023 under Sections 15(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') (Sections 29, 61, 85 of the NDPS Act added later on) registered at Police Station Sadar Pehowa, District Kurukshetra.

2. Learned counsel for the petitioner inter alia contends that the false implication of the petitioner in the case in hand is evident from the fact that he has no criminal antecedents as he is not involved in any other criminal case much less under the NDPS Act, coupled with the fact that he was not even apprehended at the spot when recovery of 71 kgs of poppy husk was allegedly effected from co-accused Khushwinder Singh @ Khushi. Learned counsel submits that though it is a case of secret information, however, it is a matter of record that the petitioner was not named in the secret information either. Learned counsel has submitted that the disclosure statement on the basis of which the petitioner has been nominated as an accused in the present case has very weak evidentiary value coupled with the fact that on being arrested no recovery of any contraband much less poppy husk was effected from the petitioner. He has further submitted that identically placed co-accused Kuldeep Singh has since been enlarged on regular bail by this Court vide order dated 15.03.2024. A prayer has, therefore, been made to extend the concession of bail to the petitioner as the challan stands presented and since as many as 27 witnesses have been cited by the prosecution, there is no likelihood of the trial concluding in the near future.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has not disputed that the petitioner was neither named in the secret information nor was he present along with the co-accused from whom the alleged

recovery of 71 kgs of poppy husk was effected and still further, he came to be nominated only on the basis of a disclosure statement allegedly suffered by the co-accused. Learned State counsel has also not been able to controvert that on being arrested on 22.10.2023, no recovery of any contraband much less poppy husk was effected from the petitioner. Learned State counsel, on further instructions, has also not disputed that the petitioner has clean antecedents and is not involved in any other criminal case much less under the NDPS Acct.

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, the petitioner is a man of clean antecedents coupled with the fact that no recovery of any contraband was effected from him and he was nominated only in a disclosure statement allegedly suffered by the co-accused; identically placed co-accused Kuldeep Singh has since been already extended the concession of bail; this Court, in the facts and circumstances, deems it fit to enlarge him on bail as the possibility of the trial concluding in the near future looks remote.

6. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds 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 add, 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

April 1, 2024
rps

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