

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

214

2024:PHHC:052530

CRM-M-17974-2024

Date of decision: April 19th, 2024

Bhairu Lal

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Abhishek Sindwani, Advocate
for the petitioner.

Mr. Rajesh Gaur, Additional Advocate General, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.287 dated 15.05.2023 under Sections 186, 353, 336, 427 of the IPC and Sections 15(c), 27 and 29 of the NDPS Act, 1985 registered at Police Station Sadar, Bhiwani.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was just accompanying the co-accused in the vehicle from which a recovery of 68 kilograms of poppy husk was allegedly affected. It has been submitted that after the petitioner was arrested on 15.05.2023, not only had the challan been presented but even charges framed, however, none of the witnesses cited by the prosecution had been examined. Hence, his further incarceration would serve no useful purpose.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from Inspector Rakesh Kumar, has not disputed that the petitioner is not

involved in any other criminal case much less under the NDPS Act. However, he submits that the petitioner was driving the vehicle in question when it was intercepted by the police and the alleged recovery affected. It has also not been disputed, on instructions, that the case has been repeatedly adjourned ever since the charges were framed on 02.02.2024 on account of the non-examination of the prosecution witnesses. It has also not been disputed that identically placed co-accused have since been extended the concession of bail by this Court vide orders dated 20.02.2024 and 04.04.2024 (Annexures P-2 and P-3 respectively).

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

5. The investigation in the case at hand is complete as concededly charges stand framed, however, as not disputed by the learned State counsel, on instructions, none of the prosecution witnesses have been examined so far. The alleged recovery of poppy husk affected from the vehicle of the co-accused Jagdish is just marginally higher than the minimum prescribed as commercial under the NDPS Act.

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.

April 19th, 2024

(MANJARI NEHRU KAUL)
JUDGE

Puneet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No