



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

226

CRM-M-19112-2024**Date of decision: 31.07.2024****VIJAY KUMAR**

...Petitioner

V/s

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Parminder Singh Sekhon, Advocate, for the petitioner.

Mr.Amit Rana, Sr.DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.80 dated 09.04.2023 under Sections 21, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station City Kapurthala, District Kapurthala.

2. Status report by way of affidavit of Sh.Harpreet Singh, PPS, Deputy Superintendent of Police, Sub Division Kapurthala, has been filed in Court today on behalf of respondent-State of Punjab. The same is taken on record subject to all just exceptions.

3. Learned counsel appearing for the petitioner has reiterated that he has been implicated in a false and frivolous case and thereafter 260 gms. of heroin planted upon him as well as co-accused Pawan Kumar. It has been further submitted that the petitioner was allegedly going on a



motorcycle with the co-accused when both of them were apprehended by the police on suspicion. It has still further been submitted that even though the petitioner has been in custody since 09.04.2023, the trial has not yet concluded as none of the 17 prosecution witnesses have been examined till date even though the charges were framed on 16.08.2023. Still further, it has been argued by the learned counsel that a fabricated case having been planted upon the petitioner is evident from the fact that firstly as per the report of the doctor, which is annexed as Annexure R-1 with the status report filed by the State, the petitioner had no vision in his right eye whereas the left eye had little vision hence he could not have been possibly able to drive the motorcycle on the fateful day coupled with the fact that there was documentary evidence in the shape of some CCTV footage wherein it was visible that the motorcycle on which the petitioner along with co-accused was allegedly travelling was in fact being driven by a police official. It has also been asserted that since identically placed co-accused Pawan Kumar has been enlarged on bail, the petitioner also deserves a similar relief.

4. Per contra, learned State counsel, on instructions, has not disputed that after the charges were framed, the trial has not made much headway and as many as 17 prosecution witnesses remained to be examined. However, learned State counsel has strongly controverted the submissions made by the counsel opposite about the inability of the petitioner to drive a motorcycle. Learned State counsel has drawn the attention of this Court to para No.10 of the medical report annexed as



Annexure R-1 of the Medical Officer, Central Jail, Kapurthala wherein it has been mentioned that all the limbs of the petitioner are working fine though he has lost vision in one of his eyes however in the other eye he has limited vision. Learned State counsel has submitted that it has nowhere been reported by the Medical Officer that on account of his low vision, the petitioner could have been unable to drive the motorcycle. It has thus been submitted that in the circumstances, the contention of the learned counsel that he could not have possibly been driving the motorcycle on the fateful day deserves to be rejected and if at all the petitioner has any documentary evidence in the shape of CCTV footage it cannot be gone into at this stage instead it would be appreciated during the course of trial. Learned State counsel has also submitted that no doubt co-accused Pawan Kumar has been extended the concession of bail by this Court by placing reliance upon a judgment of Hon'ble the Supreme Court in *Dheeraj Kumar Shukla Vs. State of Uttar Pradesh [SLP(Crl.) No.6690/2022]*, however, it would not come to the rescue of the petitioner as it is a matter of record that he is involved in a number of criminal cases including one case registered under the NDPS Act in the State of Himachal Pradesh. In support, learned counsel has placed on record the custody certificate of the petitioner in the said case i.e. FIR No.191/2017 under Sections 451, 506, 147, 148, 149 and 323 of IPC registered at Police Station Haroli.

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



6. In the facts and circumstances as enumerated hereinabove coupled with the fact that the recovery affected from the petitioner has been classified as commercial and keeping in view his criminal antecedents, he does not deserve the concession of bail.

7. Accordingly, the instant petition is dismissed. 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.

(MANJARI NEHRU KAUL)
JUDGE

July 31, 2024
poonam

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