



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

229

CRM-M-21759-2024

Date of decision: July 25th, 2024

Shambhu Ram @ Shambhu Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J.

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.107 dated 06.06.2023 under Sections 15 and 18 of the NDPS Act registered at Police Station Sadar Samana, District Patiala.

2. Learned counsel for the petitioner has reiterated the submissions made on the last date of hearing that he has been in custody since 06.06.2023 in a case of false implication. It has been argued that the petitioner was working as a helper in the canter from which recovery of 400 kilograms of poppy husk was allegedly affected, when the police party stopped the canter on suspicion. It has been submitted that the petitioner was unaware about the contraband, which had been loaded into the canter, and if at all it was only the driver-cum-owner of the canter, who could have been aware of the contents of the loaded bags. It has been submitted that had the petitioner been aware about the contents of the contraband in the bags, he too would have fled

away from the spot along with the co-accused i.e. driver-cum-owner of the canter. Learned counsel has still further submitted that the investigation in the present case is complete as challan stands presented and even charges framed, however, till date only one witness out of the 16 cited by the prosecution has been examined. Hence, his further incarceration would serve no useful purpose as the possibility of the trial concluding in the near future looks remote.

3. Learned State counsel has, however, opposed the prayer and submissions made by the counsel opposite. He has submitted that no doubt, the petitioner was working as a helper in the canter from which a recovery of 400 kilograms of poppy husk was affected, however, he too had tried to flee away from the spot on being intercepted by the police; the police foiled his attempt and then he was apprehended at the spot while co-accused Baljit Singh alias Vicky i.e. owner-cum-driver of the canter succeeded in absconding, and he was still at large. Learned State counsel has disputed the submissions made by the counsel opposite that only one prosecution witness has been examined till date. He, on instructions, has submitted that four prosecution witnesses have been given up, one has been examined and a few other witnesses have been summoned for the next date of hearing. It has also been submitted that the trial in the present case has been proceeding at a reasonably good pace and there is every likelihood that the trial would not take much time to conclude. Furthermore, learned State counsel has prayed for dismissal of the instant petition in view of the huge contraband i.e. 400 kilograms of poppy husk recovered from the canter, which is many times more than the minimum classified as commercial under the NDPS Act.

4. I have heard learned counsel for the parties and perused the relevant material on record.
5. The petitioner was arrested on 06.06.2023 from the spot and as per submissions made by the learned State counsel, the alleged recovery was affected after due compliance of all the mandatory provisions of the NDPS Act. The trial would not take much time to conclude as only 12 prosecution witnesses remain to be examined.
6. In the facts and circumstances as enumerated hereinabove, coupled with the huge recovery affected from the canter in which the petitioner admittedly was employed as a helper, this Court does not deem it fit to extend the concession of bail to the petitioner. Consequently, the instant petition stands dismissed.
7. 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.

July 25th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No