

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

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2024:PHHC:027037

CRM-M-23587-2022

Date of decision: February 27th, 2024

Patras Masih

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Manbir Singh Basra, Advocate
for the petitioner.

Mr. Navdeep Singh, Deputy Advocate General, Punjab.

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.11 dated 29.01.2022 under Sections 307, 120-B of the IPC, Section 25 of The Arms Act, 1959 and Sections 27-A/30/35 of the NDPS Act, 1985 added later on, registered at Police Station Kalanaur, District Gurdaspur.

2. Learned counsel for the petitioner, *inter alia*, contends that the false implication of the petitioner in the FIR in question is evident from the fact that firstly he was neither named in the FIR in question nor any suspicion raised either in any secret information received or even thereafter qua his involvement in the sale and purchase of narcotic substances. It has been further submitted that the petitioner came to be nominated as an accused on the basis of disclosure statements suffered by four co-accused, who were allegedly apprehended by the police on 28.01.2022 and from whom, a huge recovery of firearms and drug money was effected and thereafter, pursuant to their disclosure statements, another recovery of 54 kilograms of heroin was effected

alongside the Indo-Pak border along with some more firearms etc. Learned counsel for the petitioner has further argued that it is a matter of record that when the petitioner was arrested on 07.03.2022 pursuant to the disclosure statements allegedly suffered by the co-accused, no narcotic substance much less heroin was recovered from him nor was any drug money or even firearms recovered. It has also been asserted by the learned counsel that all these facts need to be appreciated in the light of the petitioner having clean antecedents as it is a matter of record that he is not involved in any other criminal case much less under the NDPS Act. Learned counsel for the petitioner has also submitted that the evidentiary value of the disclosure statement on the basis of which he has been nominated as an accused in the case in hand is of a weak nature and as such, even on that count, he deserves to be enlarged on bail.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not disputed that no recovery of any contraband or firearms or even drug money was effected from the petitioner after he was arrested on 07.03.2022. It has also not been disputed by the learned State counsel, on instructions, that the petitioner is not involved in any other criminal case much less under the NDPS Act except for another FIR, which pertains to the same occurrence in question. He however submits that the petitioner was a close friend of one of the co-accused Harnek Masih @ Neka. Learned State counsel has further brought to the notice of this Court that as on date, five witnesses out of the 25 cited by the prosecution, stand examined and the next date fixed before the trial Court is 22.03.2024.

4. I have heard learned counsel for the parties and perused the material placed on record.
5. The petitioner has been in custody since 07.03.2022. The challan in the instant case was presented way back on 12.04.2022 and ever since then, only five prosecution witnesses have been examined. Furthermore, as conceded by the learned State counsel on instructions, no recovery of any narcotic substances much less even drug money or firearms was effected from the possession of the petitioner.
6. In the facts and circumstances as enumerated hereinabove, especially in view of the role attributed to the petitioner, this Court deems it fit to extend the concession of bail to the petitioner. Accordingly, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned.
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.
8. 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.

February 27th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No