

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.25807 of 2021
Date of decision: 4th March, 2024

Manbir Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Harish Chhabra, Advocate for the petitioner.
Mr. Navdeep Singh, Dy. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.118 dated 11.11.2018 under Sections 21, 25, 29, 61, 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Lohian, District Jalandhar.

2. Learned counsel for the petitioner inter alia contends that he has been in custody since 11.11.2018 and hence, on this ground alone he deserves to be extended the concession of regular bail. Learned counsel submits that Hon'ble the Supreme Court has time and again reiterated that beyond the period of two years, an undertrial should not be made to languish in custody. In support, he has placed reliance upon '**Shariful Islam @ Sarif vs. The State of West Bengal**' Spl Leave to Appeal (Crl.) 4173 of 2022 wherein an accused who had been in custody for 2 years and 2 months, was enlarged on bail. Reliance has also been placed

upon ‘**Mohd. Salman Hanif Shaikh vs. The State of Gujarat**’ SLP (Crl.) 5530 of 2022 (d/d 22.08.2022) wherein as per the learned counsel, Hon'ble the Supreme Court had held that undertrials should be granted the relief of regular bail on the basis of custody dehors Section 34 of the NDPS Act. Learned counsel submits that in the circumstances, the petitioner also deserves the same relief, more so, since co-accused Jaskaran Singh has been enlarged on bail on 10.08.2020.

3. Learned counsel has further submitted that a false recovery of 1 kg of Heroin was planted upon him along with ₹6.42 lacs drug money. He has submitted that the next date of hearing fixed before the trial Court is 07.03.2024 when some more witnesses are likely to be examined and hence, the petitioner cannot be made to languish in custody for such an inordinate period.

4. Per contra, learned State counsel has vehemently opposed the prayer and submissions made by the counsel opposite. He, on instructions from ASI Avtar Singh, has informed the Court that the petitioner was apprehended with a huge recovery of 1 kg of Heroin along with drug money in the sum of ₹6.42 lacs when he was intercepted while riding his motorcycle, by the police. Learned State counsel submits that the mandatory provisions of the NDPS Act were complied with, hence, there was no question of false recovery being planted upon the petitioner. He has still further submitted that the petitioner is a habitual offender and it is a matter of record that as many as 5 other cases under the NDPS Act

were registered against him. Learned State counsel has submitted that the petitioner is still facing trial in three cases under the NDPS Act, though he is on bail in those cases. On a pointed query put to the learned State counsel as to whether the case of the petitioner is at par with that of his co-accused Jaskaran Singh, who was granted the concession of regular bail in August 2020, he, on instructions, has submitted that the petitioner cannot seek parity with his co-accused since he was not apprehended at the spot and his name surfaced only during a disclosure statement allegedly suffered by none other than the present petitioner himself. Learned State counsel has also submitted that the trial is nearing conclusion as only 4 prosecution witnesses remain to be examined; the next date fixed before the trial Court is 07.03.2024 when in all likelihood, the evidence of the prosecution would be concluded.

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

6. There is no dispute that an undertrial does deserve speedy trial. However, while deciding bail application of an accused/undertrial, his criminal antecedents cannot be ignored and that is precisely the reason that the case law relied upon by the learned counsel for the petitioner would not come to his rescue because in those cases, there is nothing forthcoming qua the criminal antecedents of these accused/petitioners; however, in the instant case it is a matter of record that the petitioner is involved in at least three other cases under the NDPS

Act. The recovery allegedly effected in the case in hand is much more than the minimum classified as commercial under the NDPS Act. In the circumstances as enumerated hereinabove, this Court does not deem it fit to extend the concession of bail to the petitioner. The petition, as such, 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.

8. In view of the long incarceration of the petitioner in the instant case, the trial Court is directed to make earnest efforts to conclude the trial expeditiously, preferably within a period of next three months from today.

(MANJARI NEHRU KAUL)
JUDGE

March 4, 2024
rps

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