

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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2024:PHHC:089412



CRM-M-24976 of 2024
Date of Decision:- 17.07.2024

Sarabjit Singh alias Sarba

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Satnam Singh Gill, Advocate
for the petitioner.

Mr.Amit Rana, Sr.DAG, Punjab.

MANJARI NEHRU KAUL, J. (Oral)

1. Instant petition has been filed by the petitioner seeking concession of regular bail in case FIR No.147 dated 14.09.2023, under Sections 18 and 25 NDPS Act, 1985, registered at Police Station Barnala, District Barnala.
2. Learned counsel for the petitioner submits that the petitioner has been in custody since 14.09.2023 after being allegedly found in possession of 200 grams opium. Learned counsel has asserted the innocence of the petitioner, contending that the contraband was planted upon him. It has been further submitted that the alleged recovery has been categorized as non-commercial quantity under the NDPS Act. Furthermore, as per the case of the prosecution, the contraband was found in a polythene envelop which was found on the road, when the petitioner was asked to stop on suspicion by the police party. Hence, the petitioner was not even in conscious possession of

the same. Learned counsel for the petitioner has argued that since the challan stands presented and charges also framed, further incarceration of the petitioner would serve no useful purpose as none out of 09 prosecution witnesses have been examined so far and hence, there is no possibility of the trial concluding in near future.

3. Learned State counsel while opposing the submissions made by opposite counsel, has not disputed that the recovered contraband was not found in the conscious possession of the petitioner but in a plastic envelop which allegedly fell down on the road. However, it has been argued by learned counsel that the petitioner upon seeing the police while riding his two-wheeler became nervous and attempted to flee, resulting in the plastic envelop falling on the road leading to the recovery of the contraband.

4. Learned State counsel has further submitted that the petitioner has previously been involved in cases under the NDPS Act. Although he stands acquitted in one of these cases, another case is still pending. It is also submitted that the recovery affected therein was of a small quality contraband. Learned State counsel on instructions from ASI-Sukhwinder Singh has still further stated that the next date fixed before the trial court is 31.07.2024, when some more prosecution witnesses out of the remaining 9 are likely to be examined.

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

6. The petitioner has been in custody since 14.09.2023; the alleged recovery affected has been classified as non-commercial under the NDPS Act; the possibility of the trial concluding in the near future seems unlikely.

7. In the facts and circumstances as enumerated hereinabove, this Court thus deems it fit to extend the concession of regular bail to the petitioner. Accordingly, the instant petition is allowed. The petitioner be admitted to bail subject to the furnishing of heavy surety to the satisfaction to the trial Court/Duty Magistrate concerned.

8. 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.

9. Needless to add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

17.07.2024
sd

(MANJARI NEHRU KAUL)
JUDGE

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