2024:PHHC:109876

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

**237**

**CRM-M-25207-2024**
**Date of decision: 27.08.2024**

Sher Singh alias Shera .....Petitioner

Versus

State of Haryana .....Respondent

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

Present : Mr. D.S. Virk, Advocate for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

****

**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.0145 dated 12.07.2020 under Sections 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Cheeka, District Kaithal.

2. Learned counsel for the petitioner submits that it is evidently a case of false implication against the petitioner, who has now been in custody since 11.09.2022. Learned counsel submits that investigation in the present case is complete and even charges stand framed, however, till date only 02 witnesses out of the 39 cited by the prosecution have been examined, hence, there is no possibility of the trial concluding in the near future. It has also been brought to the notice of this Court that co-accused Ramesh Kumar, who is identically placed as the petitioner, has since been extended the concession of bail by

VINAY
2024.08.28 09:27
I attest to the accuracy and
authenticity of this
order/judgment

Hon'ble the Supreme Court vide Annexure P-7 on 03.04.2024. Hence, in the circumstances moreso, since the petitioner was not even apprehended at the spot, he deserves similar relief.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions, has submitted that the petitioner cannot claim parity with co-accused Ramesh Kumar; firstly because there was a specific secret information received qua all of the three accused, including the petitioner, that they were involved in drug trafficking; secondly, co-accused Ramesh Kumar is not involved in any other criminal case much less under the NDPS Act; thirdly, the custody period of co-accused Ramesh Kumar was more than 04 years and the trial had come to a virtual standstill which thus, weighed with Hon'ble the Supreme Court while extending the concession of bail to him. Learned State counsel has submitted that in the present case, the petitioner has not even completed 02 years of incarceration. It has still further been submitted that pursuant to a secret information received, when the police reached the street where the house of co-accused Ramesh Kumar was located, the petitioner along with co-accused Ashok Kumar fled away from the spot as a result of which they could not be apprehended and it was only much later on 11.09.2022, that they were finally arrested. It has been further submitted that the petitioner has criminal antecedents unlike co-accused Ramesh Kumar, as this is not for the first time he has been involved in a case under the NDPS Act; the petitioner is facing trial in 02 other criminal cases under the NDPS Act wherein also he is alleged

VINAY
2024.08.28 09:27
I attest to the accuracy and
authenticity of this
order/judgment

to be involved in trafficking of opium whereas in the third case under the NDPS Act, the petitioner has since been convicted. It has also been submitted by the learned State counsel on instructions that 03 prosecution witnesses out of the 39 have since been examined and since all the witnesses are police officials, there is every likelihood that it would not take much time for the trial to conclude. Learned State counsel has also submitted that although two other co-accused Manoj Dangi and Sandeep Kumar Dangi, have been granted the concession of bail, however, they were not named in the secret information and their names surfaced only in the disclosure statement allegedly suffered by co-accused Ramesh Kumar.

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

5. The petitioner was named in a secret information received by the police regarding drug trafficking. The petitioner prima facie comes across as a habitual offender as he is involved in 03 other cases under the NDPS Act including one conviction in a case under the NDPS Act. The petitioner cannot thus, claim parity with co-accused Ramesh Kumar as admittedly co-accused Ramesh Kumr was not involved in any other criminal case, much less under the NDPS Act. In the facts and circumstances as enumerated hereinabove, this Court does not deem it fit to extend the concession of bail to the petitioner.

6. Accordingly, the instant petition is hereby dismissed.

7. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on

VINAY
2024.08.28 09:27
I attest to the accuracy and
authenticity of this
order/judgment

the merits of the case.

**27.08.2024** (**MANJARI NEHRU KAUL**)
Vinay **JUDGE**

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

VINAY
2024.08.28 09:27
I attest to the accuracy and
authenticity of this
order/judgment