



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-28344-2024

Date of decision: 20.08.2024

Shiv Lal

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Isha Khanna, 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.248 dated 13.04.2023 under Sections 15(ii)(b), 29(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Sadar, District Gurugram.

2. Reply by way of affidavit of Kapil Ahlawat, HPS, Assistant Commissioner of Police, Sadar, Gurugram, has been filed in the Court today which is taken on record subject to all just exceptions. A copy of the same has been supplied to the counsel opposite.

3. Learned counsel for the petitioner submits that the petitioner has been in custody since 07.03.2024 in a case of false implication; the petitioner was not present with co-accused Shakul Khan qua whom a secret information had been received by the police.

Learned counsel submits that the petitioner came to be nominated as an



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accused pursuant to second disclosure statement made by one co-accused Arif who stated that the alleged recovery of contraband i.e. 45.10 kgs of poppy husk had been supplied to co-accused Shakul Khan by the petitioner. Learned counsel has submitted that after the petitioner was arrested by the police following the alleged disclosure statement, no recovery of any contraband, much less poppy husk, was effected from him which lends credence to his false implication in the present case. It has been further submitted that since investigation in the present case is complete as challan stands presented, further incarceration of the petitioner would serve no useful purpose as none of the 20 prosecution witnesses, cited have been examined.

4. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not disputed that no secret information was received qua the petitioner's involvement in drug trafficking. He, however, submits on instructions that when co-accused Shakul Khan was arrested, he suffered a disclosure statement nominating one Arif as his accomplice. Subsequently, co-accused Arif then suffered another disclosure statement nominating the petitioner as an accused and stating that it was the petitioner who had been supplying poppy husk to them.

5. On a pointed query, learned State counsel on instructions has submitted that no recovery of any narcotic substance much less poppy husk was effected from the petitioner when he was arrested on 07.03.2024. The stage and status of trial has also not been disputed by the learned State counsel, however, it has been submitted that the

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petitioner is involved in two other cases under the NDPS Act.

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

7. The investigation in the present case is complete as challan stands presented and charges framed. Concededly, no recovery of any contraband has been effected from the petitioner. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

8. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned. 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.

20.08.2024

(MANJARI NEHRU KAUL)
JUDGE

Vinay

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No