



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-29056-2024 (O&M)

Date of decision: 08.08.2024

Nishan Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Viren Sibal, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.36 dated 04.04.2021 under Sections 21(c), 29, 61, 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Sadar Patti, District Tarn Taran.

2. Learned counsel for the petitioner contends that he has been falsely implicated in the instant case. A perusal of the FIR annexed as Annexure P-1 reveals that there are allegations that from the heroin purportedly recovered from the petitioner, a portion was sold for Rs.90 lakhs. However, at the time of the alleged recovery, no such amount of money was found with the petitioner.

3. Furthermore, it has been asserted by learned counsel for the petitioner that the petitioner has been in custody since 04.04.2021 and the trial has come to a virtual standstill because of the repeated



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non-appearance of prosecution witnesses. A prayer has, therefore, been made in the aforementioned facts and circumstances, it is evident that the trial would take a long time to conclude.

4. Per contra, learned State counsel has vehemently opposed the prayer and submissions made by learned counsel for the petitioner, by asserting that there was secret information received regarding the involvement of the petitioner in drug trafficking. The petitioner was apprehended at the spot with a substantial quantity of heroin i.e. 3 kgs, which far exceeds the minimum quantity classified as 'commercial' under the NDPS Act. The learned State counsel has thus, argued that the case of the petitioner does not meet the requirements set forth under Section 37 of the NDPS Act, which would justify the denial of bail to the petitioner.

5. Learned State counsel has further submitted on instructions that the prosecution witnesses have been regularly appearing before the learned Trial Court, however, on certain dates, their testimonies could not be recorded due to the time constraints of the Court. Additionally, on some dates of hearing the case was adjourned because of the failure of the co-accused to appear, for which the prosecution cannot be held accountable.

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

7. After hearing learned counsel for the parties, this Court is not inclined to grant bail to the petitioner as except for few dates the prosecution witnesses have been regularly appearing before the learned



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Trial Court and it is a matter of record that as per instructions received by the learned State counsel that one of the co-accused, who was in custody in some other case, did not appear before the learned Trial Court in the present case. Therefore, the delay in the trial cannot be attributed to the prosecution. In the facts and circumstances as enumerated hereinabove, this Court does not deem it fit to extend the concession of bail to the petitioner.

8. Accordingly, the instant petition is hereby dismissed.

9. Pending applications, if any, stand disposed of.

10. However, since the petitioner has been in custody since 04.04.2021, the learned Trial Court is directed to make earnest efforts to conclude the trial expeditiously, preferably within five months from today.

11. 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.

08.08.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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