

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

219

CRM-M-29025-2023

Date of decision: 30.04.2024

Amandeep

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Amit Choudhary, Advocate with
Mr. Himanshu Setia, Advocate and
Mr. Hritik Gupta, Advocate
for the petitioner.

Mr. Rajesh Gaur, Addl. A.G., 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.433 dated 16.08.2022 under Sections 21C and 27A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Sadar Fatehabad, District Fatehabad.

2. Learned counsel for the petitioner inter alia contends that as per the case of the prosecution, a secret information was received qua the involvement of three persons including the petitioner in drug trafficking; pursuant to the secret information received the petitioner was apprehended by the investigating agency when the police went to his house, whereas the other two accused fled away. On search, recovery of 255 grams of heroin was effected from the petitioner.

Learned counsel inter alia contends that the mandatory provisions of

the NDPS Act particularly Section 50 were not complied with at the time of the alleged recovery. It has also been submitted that two co-accused who had been named in the secret information and had allegedly fled away on seeing the police, had since been extended the concession of bail. It has been still further submitted that after the petitioner was arrested on 16.08.2022, challan was presented on 29.03.2023 and charges framed on 06.12.2023, however, till date none of the 22 prosecution witnesses had been examined as it is a matter of record that on all the dates it is on account of the non-appearance of the prosecution witnesses their evidence could not be recorded. Learned counsel submits that a false case has been planted upon him; the alleged recovery is marginally higher than the minimum classified as commercial under the NDPS Act and furthermore the petitioner has clean antecedents as he is not involved in any other criminal case much less under the NDPS Act. It has also been asserted by the learned counsel that the petitioner has been languishing in custody due to the non-appearance of the prosecution witnesses who in the instant case are all officials leading to the delay in the conclusion of the trial. In support, learned counsel has placed reliance upon ***Dheeraj Kumar Shukla Vs. State of Uttar Pradesh (SLP(Crl.) No.6690/2022) decided on 25.01.2023*** wherein the Hon'ble Supreme Court had granted the concession of bail to the accused in similar circumstances.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from ASI Chiman Lal, has not disputed the stage of trial, and the petitioner having clean antecedents. It has also not been disputed that it is on

account of non-appearance of the prosecution witnesses before the learned Trial Court, the case is being adjourned repeatedly. However, learned State counsel on instructions has submitted that a specific secret information had been received qua the involvement of the petitioner and the co-accused in drug trafficking; the alleged recovery was effected from the house of the petitioner though the other co-accused fled away on seeing the police party.

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

5. Admittedly, the trial has come to a standstill after the charges were framed on 06.12.2023 as none of the 22 witnesses cited by the prosecution, have been examined till date. Thus, the likelihood of the trial concluding in the near future does not seem possible. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

6. 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.

7. 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.

30.04.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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