



CRM-M-29333-2024 (O&M)

-1-

234

**IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH**

CRM-M-29333-2024 (O&M)
Decided on:02.07.2024

Balwinder Kumar @ Bindu

.... Petitioner

versus

State of Punjab

.... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Gurnoor Singh Sethi, Advocate
for the petitioner.

Mr. Shiva Khurmi, AAG, Punjab with
ASI Samarjit Singh,

Manjari Nehru Kaul, J. (Oral)

CRM-25891-2024

Application is allowed as prayed for and document (Annexure
P-6) is taken on record subject to all just exceptions.

CRM-25973-2024

Application is allowed as prayed for and the zimni orders
(Annexure P-7) is taken on record subject to all just exceptions.

Main case

This is the second petition filed under Section 439 Cr.PC for
grant of regular bail to the petitioner in case FIR No.132 dated 05.10.2022
registered under Section 15 of NDPS Act (Sections 27 and 29 of NDPS
Act added later on) at Police Station Nurpur Bedi District Rupnagar.

2. At the outset, learned State counsel has opposed the prayer
of the petitioner and argued that since the withdrawal of similar petition on



CRM-M-29333-2024 (O&M)

-2-

15.01.2024, there has been no material change in circumstances to warrant entertaining the present petition. Additionally, learned State counsel has contended that a specific secret information had been received qua the petitioner and the co-accused regarding their involvement in trafficking of poppy husk from Jammu & Kashmir to other parts of the country. Acting on this information, the police apprehended all the accused, including the petitioner, who were travelling together in a jeep. On being intercepted, all the accused were found in possession of a substantial quantity of poppy husk, weighing 1 qtl. and 500 grams. It has also been further contended by the State counsel, on instructions that after the challan was presented on 01.02.2023, charges were framed on 08.11.2023. Since then, seven prosecution witnesses have been examined with only 8 formal witnesses remaining to be examined, which clearly suggests that the trial would conclude shortly. It has also been submitted by the State counsel that a perusal of the zimni orders, which have been annexed by the petitioner with CRM-25973-2024, reveal that there has been no adjournment sought by the prosecution during trial, rather it is the counsel for the defence, who has sought adjournments before the trial Court and hence, the prosecution cannot be faulted with, in case, the trial has not concluded till date.

3. Per contra, learned counsel for the petitioner has disputed the submissions made by the learned State counsel by asserting that the petitioner is innocent and has been falsely implicated in the present case. Learned counsel has emphasised that the petitioner has clean antecedents as it is a matter of record that he is not involved in any other



criminal case much less under the NDPS Act. Learned counsel has reiterated that the conclusion of the trial in the near future seems unlikely as it is a matter of record that since 08.11.2023, the case has been adjourned 15 times by the trial Court for which the petitioner cannot be made to languish in custody, more so, when the investigation is complete, challan presented and charges framed; hence, there can be no risk of the petitioner tampering with evidence or influencing witnesses as they are all officials.

4. Heard learned counsel for the parties and perused the relevant material available on record.

5. After the petitioner was intercepted alongwith the co-accused following a tip off, he was arrested on 05.10.2022. The challan was presented on 01.02.2023 followed by the framing of charges on 08.11.2023. A perusal of the zimni orders on which learned counsel for the petitioner has placed reliance clearly reveals that the trial has been proceeding at a reasonably good pace and the prosecution witnesses have been regularly appearing before the trial Court to get their evidence recorded. Rather, a perusal of the zimni orders reveal that it is the counsel for the defence, who has sought adjournments to cross-examine the witnesses. There is every likelihood that the trial would not take much time to conclude as now only 8 formal witnesses remain to be examined.

6. In the facts and circumstances as enumerated hereinabove coupled with the huge recovery of poppy husk affected from the accused, who were travelling together in a jeep, this Court does not deem it fit to



CRM-M-29333-2024 (O&M)

-4-

extend the concession of regular bail to the petitioner. Accordingly, the instant petition is dismissed.

7. 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.

02.07.2024
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/non-speaking?	Yes/No
Whether reportable?	Yes/No