



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

103+217

CRM-M-29805-2024 (O&M)

Date of decision: 10.09.2024

Kulwinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Yashpal Thakur, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

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In view of the reasons mentioned in the application, the same is allowed and copies of order charge sheet dated 18.07.2024 and zimni order dated 31.08.2024, are taken on record as Annexures P-3 and P-4 respectively, subject to all just exceptions.

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1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.92 dated 16.04.2024 under Sections 18-61-85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Sadar Kharar, District SAS Nagar.

2. Status report by way of affidavit of Karan Singh Sandhu, PPS, Deputy Superintendent of Police, Sub Division Kharar-1, District SAS Nagar, 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



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the counsel opposite.

3. Learned counsel for the petitioner submits that the petitioner has been in custody since 16.04.2024 in a case of false implication; a recovery of 5 kgs 150 grams of poppy plants was shown to be effected from the petitioner which would classify as non-commercial quantity under the NDPS Act, however, inadvertently due to a typographical error, charges had been framed against the petitioner under Section 21 of the NDPS Act instead of Section 18 of the NDPS Act. Learned counsel has drawn the attention of this Court to Zimni order dated 31.08.2024 (Annexure P-4) which has been placed on record today, wherein the learned Trial Court has also categorically noticed that it was on account of a typographical error the petitioner had been charged for an offence under Section 21 of the NDPS Act. Learned counsel submits that in the circumstances, moreso when the petitioner is not involved in any other criminal case, challan has already been presented and charges framed, his further incarceration would serve no useful purpose as the trial would take considerable time to conclude as 10 witnesses have been cited by the prosecution.

4. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not been able to dispute the contents of the zimni order which has been placed on record today. However, it has been submitted by the learned State counsel on instructions that a specific secret information had been received qua the petitioner cultivating poppy plants and thereafter the aforesaid recovery was effected from him. Learned State counsel has on



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instructions not disputed the stage of trial and has submitted that the next date fixed before the learned Trial Court is 30.09.2024 when prosecution evidence is likely to commence.

5. On a pointed query put to the learned State counsel as to whether the petitioner is involved in any other case under the NDPS Act, he, on instructions has replied in the negative.

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

7. The alleged recovery effected from the petitioner i.e. 5 kgs 150 grams of poppy plants has been classified as non-commercial quantity under the NDPS Act. The petitioner is not stated to be involved in any other criminal case much less under the NDPS Act. 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.

10.09.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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