



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

256

CRM-M-39622-2024
Date of decision: August 22nd, 2024

Kala Singh
.....Petitioner

Versus

State of Punjab
.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Shiva Khurmi, Assistant Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

This is a second petition filed by the petitioner seeking the concession of regular bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.290 dated 16.09.2022 under Sections 21(c), 29 of the NDPS Act, 1985 at Police Station Kotwali, Kapurthala.

2. Learned counsel for the petitioner submits that the petitioner was allegedly apprehended on the basis of suspicion by the police and thereafter, recovery of 262 grams of heroin was allegedly affected from him. Learned counsel submits that even though the challan stands presented and charges framed way back on 14.03.2023, however, till date not even a single witness cited by the prosecution has been examined only on account of the continuous non-appearances of the prosecution witnesses before the trial Court, even though on a number of dates bailable warrants were issued to secure their presence. Learned counsel has submitted that in the aforementioned facts and circumstances, the

petitioner cannot be made to languish in custody for an indefinite period as it amounts to compromising with his right of speedy trial.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by counsel opposite has not disputed that after the charges were framed on 14.03.2023, not even a single prosecution witness has been examined; it has also not been disputed that all the witnesses cited by the prosecution are police officials, and despite issuance ofailable warrants, they have failed to appear before the trial Court to get their evidence recorded. However, it has been submitted by the learned State counsel that the petitioner is involved in eight other criminal cases, which include one case under the IPC, six cases under the Excise Act and one conviction in a case under the NDPS Act, in which he has already served out his sentence of one month.

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

5. The petitioner has been custody for close to two years having being arrested on 16.09.2022. The alleged recovery affected from the petitioner is 262 grams of heroin, which is just marginally higher than the minimum classified as commercial under the NDPS Act. As on date, the petitioner is not facing trial in any other case under the NDPS Act.

6. In the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail 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 say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

August 22nd, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No