



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

242

CRM-M-46448-2024
Date of decision: September 23rd, 2024

Sunil

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Ms. Prabhjot Kaur Virk, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, Assistant Advocate General,
Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) in case FIR No.79 dated 20.03.2021 under Sections 20 and 27 of the NDPS Act, registered at Police Station Civil Lines, Jind.

2. Learned counsel for the petitioner submits that as per the case of the prosecution itself, a secret information was received qua the involvement of co-accused Swaroop Singh and Manish that they were involved in drug trafficking. On being apprehended, pursuant to the secret information, a recovery of 2.40 kilograms of *charas* was allegedly affected from the aforementioned two co-accused. Learned counsel submits that no secret information was received with respect to the petitioner's involvement in drug trafficking nor is it the case of the prosecution that the petitioner was accompanying the co-accused at the time of the alleged recovery. Learned counsel submits that after being arrested, the co-accused suffered a disclosure statement, wherein they

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did not nominate the petitioner and instead, nominated one Sultan as being the supplier of the recovered contraband; strangely, on the following day, a second disclosure statement was made, wherein the apprehended co-accused submitted that *charas* had been supplied to them by the present petitioner. Learned counsel has further argued that the false implication of the petitioner is further evident from the fact that on being arrested on 05.05.2024, no recovery of any contraband much less *charas* was affected from him. Learned counsel thus, submits that in the light of the aforementioned facts and circumstances, it is not hard to discern that the petitioner has been framed in the present case. It has also been submitted that the disclosure statement on the basis of which the petitioner has been arraigned as an accused has very poor evidentiary value. Learned counsel has still further contended that since the investigation in the present case is complete as challan stands presented, his further incarceration would serve no useful purpose as the trial would take considerable time to conclude, more so when none of the 18 witnesses cited by the prosecution have been examined.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has not been able to dispute that no secret information was received with respect to the involvement of the petitioner in drug trafficking; it has also not been disputed that it was only in the second disclosure statement suffered by co-accused that the petitioner's name surfaced.

4. On a pointed query put to the learned State counsel as to whether any contraband had been recovered from the petitioner on



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being arrested, he, on instructions, has replied in the negative. Learned State counsel has also not been able to controvert that challan stands presented and as many as 18 prosecution witnesses have been cited. However, learned State counsel has submitted that the petitioner has been previously involved in two cases under the NDPS Act, out of which in one, he stands acquitted while in other case, the trial is still underway.

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

6. The petitioner has been in custody since 05.05.2024; admittedly, no recovery of any contraband was affected from him on being arrested on 05.05.2024. The trial would take considerable time to conclude.

7. In the facts and circumstances as enumerated hereinabove, 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.

8. 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.

September 23rd, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No