

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

224

CRM-M-49284-2023

Date of decision: 03.04.2024

Sukhwinder Singh @ Gurpreet Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. B.S. Bhalla, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

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.46 dated 25.03.2023 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') (Sections 27B and 29 of the NPDS Act added lateron) registered at Police Station Kot Ise Khan, District Moga.

2. Learned counsel for the petitioner inter alia submits that the petitioner has been falsely implicated in the present case on account of his strained relations with police officials. It has been submitted that the genesis of the entire case is one FIR No.50 dated 23.03.2023 which was registered against the petitioner prior in time to the present FIR. In the aforesaid previous FIR as well false and fabricated allegations had been levelled against the petitioner of having conspired in the murder of one Amarjit Kaur. It is also pertinent to notice that earlier also the father of the petitioner had approached this Court in CRWP-132-2023 titled as 'Meher Singh Vs. State of Punjab and others', seeking

protection of his life and liberty as the official respondents i.e. the police officials had been unnecessarily harassing and pressurizing him to effect compromise in an FIR No.166 dated 20.11.2022 registered by him. Learned counsel has submitted that feeling offended on account of the father of the petitioner approaching this Court, the police officials had conspired to then implicate him in a false case in FIR No.50 dated 23.03.2023 under Section 302 of the IPC. It has been submitted that the factum of the petitioner being falsely implicated in criminal cases by the police officials is strengthened from the fact that not only was he declared innocent by the police during investigation in the aforesaid murder case of one Amarjit Kaur but subsequently an application for his discharge made by the Public Prosecutor before the learned Trial Court was also allowed.

3. Learned counsel for the petitioner has further submitted that it is in the aforementioned background and as an off shoot of the above, the present case has been yet again planted upon him; the allegations in the present FIR are that when the police party went in search of the petitioner, who was an accused in FIR No.50 dated 23.03.2023, they apprehended a young man sitting in a parked car, who then turned out to be the petitioner, and from whom alleged recovery of 255 grams of heroin was effected. Learned counsel has submitted that even the said recovery was shown to have been effected from beneath the seat of the driver. Learned counsel has submitted that the sequence of events including the registration of false cases against the petitioner makes it abundantly clear that the officials are hell bent upon in involving the petitioner in some criminal case or the other on account

of they having been exposed of their misdeeds. It has been further submitted that the petitioner has been in custody for more than a year having been arrested on 25.03.2023; challan stands presented and even charges stand framed coupled with the fact that the only one witness out of the 15 cited by the prosecution has been examined till date, hence, there is no likelihood of the trial concluding in the near future.

4. Per contra, learned State counsel has opposed the prayer made by the counsel opposite. On a pointed query put to the learned State counsel, he, on instructions has not been able to dispute that indeed some criminal cases were filed against the petitioner including FIR No.50 dated 23.03.2023 wherein the petitioner was declared innocent and an application for discharge had also been moved by the Public Prosecutor himself. However, it has been asserted that in the present case, the recovery effected from the petitioner has been classified as commercial though it is just marginally higher than the minimum prescribed as commercial quantity under the NDPS Act.

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

6. In the facts and circumstances as enumerated hereinabove coupled with the fact that the alleged recovery from the petitioner is just marginally higher than the minimum classified as commercial under the NDPS Act, this Court deems it fit to extend the concession of bail to the petitioner.

7. 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

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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.

03.04.2024 (MANJARI NEHRU KAUL)
Vinay JUDGE

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