

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

205

CRM-M-50959-2023

Date of decision: 16.02.2024

Satyawan

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sushil Sheoran, Advocate
for the petitioner.

Mr. Rahul Mohan, Sr. DAG, Haryana.

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.104 dated 25.05.2022 under Sections 20C/27A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Jakhal, District Fatehabad.

2. Learned counsel for the petitioner inter alia contends that the petitioner along with the co-accused has been falsely implicated in the case in hand for having been found in possession of 40 kgs of ganja while they both were riding a motorcycle and were intercepted by the police on suspicion. Learned counsel submits that the petitioner being innocent and not in any manner being involved in the trafficking of narcotic substance, is fortified from the fact that he has clean antecedents and is not involved in any other criminal case. It has also been submitted that the offer which was given to the petitioner on being allegedly nabbed by the police on 22.05.2022, was contrary to the

mandatory provisions of the NDPS Act. Learned counsel has drawn the attention of this Court to the order passed by a Coordinate Bench of this Court on 09.11.2023 whereby co-accused Rajender had been extended the concession of bail. Learned counsel has, thus, urged that in the facts and circumstances, the petitioner be enlarged on bail as only 05 prosecution witnesses have been examined and thus the trial would take considerable time to conclude since as many as 18 prosecution witnesses have been cited.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions, has submitted that both the accused were nabbed on suspicion by the police while they were riding together on a motorcycle. 40 kgs of ganja, which is double the minimum quantity classified as commercial under the NDPS Act, was found in a bag which had been concealed by them. Learned State counsel has still further submitted that all the material witnesses stand examined and now only 12 prosecution witnesses remain to be examined, who are just formal in nature. Hence, the trial would not take much time to conclude.

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

5. The recovery allegedly effected from the petitioner i.e. 40 kgs of ganja falls under the commercial quantity and is double the minimum classified as commercial under the NDPS Act. The petitioner, though, has been in custody since 22.05.2022, however, it is not the case of the petitioner that the trial has come to a virtual standstill on account of the non-appearance of the prosecution witnesses; it is a

matter of record that the prosecution witnesses are being regularly examined and now only formal witnesses remain to be examined. The contention of learned counsel for the petitioner that co-accused Kalia along with Rajender had been extended the concession of bail by a Coordinate Bench of this Court would not come to his rescue. Co-accused Kalia came to be nominated as an accused on the basis of an alleged disclosure statement made by co-accused whereas in the case of the petitioner, he was apprehended at the spot along with the recovered contraband. In the facts and circumstances coupled with huge recovery effected from the petitioner, moreso when the trial is at an advanced stage, this Court does not deem it fit to extend the concession of bail to the petitioner.

6. Accordingly, the instant petition is hereby dismissed. 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. However, the learned Trial Court is directed to make earnest efforts to expedite the trial.

16.02.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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