

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

218

CRM-M-56963-2023

Date of decision: 09.02.2024

Rahul Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. R.P. Dhir, Advocate
for the petitioner.

Mr. Mohit Kapoor, Addl. A.G., 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.124 dated 23.07.2023 under Sections 22, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Garhshankar, District Hoshiarpur.

2. Learned counsel for the petitioner inter alia contends that a false recovery of 22 injections of Buprenorphine has been planted upon him which is evident from certain photographs wherein the petitioner can be seen being escorted by an Inspector of Police and not by the Investigating Officer. It has been further submitted that no doubt the recovery allegedly effected has been classified as commercial under the NDPS Act, however, the factum of the Investigating Officer not being present when the petitioner was picked up by the Inspector of Police goes to show as to how false cases are being planted upon innocent people in the State of Punjab. Learned counsel has further submitted

that after the challan was presented on 18.01.2024, none of the 10 prosecution witnesses had been examined till date, hence, there was no likelihood of the trial concluding in the near future. In the circumstances, the petitioner deserves to be extended the concession of bail.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions, controverted the submissions made by the counsel opposite that the petitioner was picked up from his residence and thereafter a false case had been planted upon him. Learned State counsel has drawn the attention of this Court to the FIR which has been annexed as Annexure P-1 with the petition and submitted that the petitioner was apprehended on the basis of a suspicion by the police while they were on a routine patrol; all the mandatory provisions of the NDPS Act were duly complied with and it was only thereafter that the alleged recovery of 22 injections of Buprenorphine measuring 40 grams was effected which was higher than the minimum classified i.e. 17.8 grams under the NDPS Act. Learned State counsel has further submitted that the challan was presented as recently as on 18.01.2024 and thereafter the charges were framed only on 06.02.2024. Hence, the trial had been proceeding at a considerably good pace. There is every likelihood that the trial would not take much time to conclude as only 10 witnesses have been cited by the prosecution. Learned State counsel has further informed the Court on instructions that the petitioner is involved in another criminal case though not under the NDPS Act.

4. I have heard learned counsel for the parties and perused the

material placed on record.

5. The alleged recovery effected from the petitioner has been classified as commercial under the NDPS Act. The petitioner shall get ample opportunity to lead his evidence and prove his innocence during trial. In the facts and circumstances as enumerated hereinabove, this Court does not deem it fit to extend the concession of bail to the petitioner.

6. Accordingly, the instant petition is hereby dismissed.

7. 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.

09.02.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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