

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

246

CRM-M-56378-2023

Date of decision: 16.01.2024

Rajesh @ Bobal

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. P.S. Sekhon, Advocate
for the petitioner.

Ms. Jasleen Chahal, AAG, 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.286 dated 08.04.2023 under Sections 20(b)(ii)(C) and Section 27-A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Barwala, District Hisar.

2. Learned counsel for the petitioner inter alia submits that a recovery of 2 kgs 50 grams of charas was allegedly effected from co-accused Satbir and Ramesh on 08.04.2023 pursuant to a secret information that they both were involved in the sale and purchahse of charas. On being arrested, both the co-accused suffered a disclosure statement (Annexure P-2) wherein both of them did not even by way of a whisper name the petitioner, much less of supplying the alleged contraband. Rather it was stated in the first disclosure statement that the recovered contraband had been procured by them from Nepal.

Strangely, after 03 days, a second disclosure statement was suffered by the co-accused which was at complete variance with the previous disclosure statement wherein for the first time they named the petitioner and stated that the petitioner had supplied them the recovered contraband. Learned counsel submits that the evidentiary value of such disclosure statement is of an extremely weak nature which needs to be appreciated in the light of there no recovery of any contraband being effected from the petitioner, after his arrest on 11.04.2023, and furthermore, the secret information was qua the co-accused and not the petitioner. Learned counsel has also submitted that as many as 23 witnesses have been cited by the petitioner and till date none of them have been examined even though the challan was presented way back on 03.10.2023 followed by framing of charges on 08.12.2023.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from ASI ASI Vinod Kumar, has not been able to controvert that there was no mention made with respect to the involvement of the petitioner in the first disclosure statement suffered by co-accused from whom the alleged recovery was effected. It has also not been disputed by the learned State counsel that on being arrested, pursuant to the second disclosure statement made on 11.04.2023, no recovery of any contraband much less charas was effected from the petitioner. However, she submits that soon after the petitioner was arrested on 11.04.2023, another case under the NDPS Act had been registered against him on the basis of a disclosure statement by the co-accused, however, concededly in the said case also no recovery of any contraband was

effected.

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

5. The petitioner was nominated as an accused in the second disclosure statement of co-accused and has been in custody since 11.04.2023. As many as 23 prosecution witnesses have been cited; next date fixed before the Trial Court is 13.03.2024 when prosecution evidence is likely to commence. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner as the trial would take considerable time to conclude.

6. 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 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 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.

16.01.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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