

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-59230-2023

Date of decision: 14.02.2024

Rahul Kumar @ Gora

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Ms. Riffi Birla, Advocate,
for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

Manjari Nehru Kaul, J.

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.22 dated 11.03.2023 under Section 21 of NDPS Act, 1985 (Section 29 of NDPS Act added later on), registered at Police Station City-2, Abohar, District Fazilka.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the instant case for having been found in possession of 15 grams of heroin (which is intermediate quantity). Learned counsel submits that even though the challan was presented way back on 15.05.2023, followed by the framing of charges on 31.07.2023, however, till date, the trial had not proceeded any further on account of non appearance of the prosecution witnesses, who in the case in hand, are all

been cited and hence, the trial would take considerable time to conclude, as the next date fixed before the trial Court is 20.03.2024. A prayer has therefore, been made for extending the concession of bail to the petitioner, as his further incarceration would serve no useful purpose.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Harraj Singh, submitted that pursuant to a secret information received, the petitioner was nabbed and recovery of 15 grams of heroin effected from his person. He has further submitted that no doubt, the contraband effected from the petitioner has not been classified as 'commercial' under the Act, however, the petitioner is a drug addict, against whom, three (03) other cases stand registered, wherein small quantities of contraband were effected. He has, however, not been able to controvert the submissions made by the learned counsel for the petitioner qua the stage of trial.

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

5. The present case has been repeatedly adjourned on account of non appearance of the prosecution witnesses after the charges were framed on 31.07.2023. There is no likelihood of the trial concluding in the near future. In the facts and circumstances, as enumerated hereinabove, this Court thus deems it fit to extend the concession of bail to the petitioner. The petition, as such, is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. 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.

6. Needless to add here, in case the petitioner misuses the concession of bail, the State would be at liberty to approach this Court

for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)
JUDGE

14.02.2024
Ajay Prasher

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