

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.60275 of 2023

Date of decision: 27th February, 2024

Om Parkash

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sandeep K. Passi, Advocate for the petitioner.

Mr. Navdeep Singh, Dy. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.140 dated 01.12.2022 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 29 of the Act added later on) registered at Police Station Lakho Ke Behram, District Ferozepur.

2. Learned counsel for the petitioner inter alia submits that no doubt the petitioner is involved in one other case under the NDPS Act, however, it is a matter of record that he had been in custody in the other case under the NDPS Act since 24.10.2021, whereas the FIR in question was registered on 01.12.2022. Learned counsel has submitted that the alleged recovery of 5000 intoxicant tablets was effected from the co-accused Nirvair Singh and Bohar Singh; on being arrested, co-accused

Bohar Singh allegedly suffered a disclosure statement nominating the petitioner as an accused. Learned counsel for the petitioner has submitted that in the alleged disclosure statement, co-accused Bohar Singh had stated that the recovered contraband had been procured from some 'unknown person' through the petitioner. Learned counsel submits that the entire version brought forth by the prosecution is hard to digest as it is not possible that the petitioner who was admittedly in custody would have helped the co-accused to procure any contraband from some unidentified persons. It has been further submitted that out of the 13 prosecution witnesses cited, only one has been examined till date and hence, there is no likelihood of the trial concluding in the near future, for which he deserves to be extended the concession of bail.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Gurkanwaljit Kaur, has not been able to controvert that the name of the petitioner figured in a disclosure statement allegedly suffered by co-accused Bohar Singh. However, he submits that the co-accused Bohar Singh specifically stated that they had been procuring contraband as they were in continuous touch with the petitioner on telephone. Learned State counsel has, on further instructions, conceded that no name of any such unidentified person had come to light during investigation of co-accused Bohar Singh.

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

5. The petitioner has been in custody since 11.12.2022. He came to be nominated as an accused on the basis of a disclosure statement allegedly suffered by co-accused Bohar Singh. It has not been disputed that the petitioner was already in custody when the FIR in question was registered. It has also not been controverted by the learned State counsel, on instructions, that no recovery of any contraband much less intoxicant tablets, was effected from the petitioner when he was arrested in the present case on 11.12.2022. However, he has reiterated on instructions that the petitioner was one of the main suppliers of the narcotic substances and had been operating from inside the jail. On a pointed query put to the learned State counsel as to whether any case under the Prisons Act stood registered against the petitioner, he, on instructions, has replied in the negative.

6. 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.

7. 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

February 27, 2024
rps

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