

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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2024:PHHC:020671
CRM-M-62627-2023
Date of decision: February 14th, 2024

Ram Kumar
.....Petitioner

Versus

State of Haryana
.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Rakesh Nehra, Senior Advocate
with Ms. Himani Anand, Advocate
for the petitioner.

Ms. Trishanjali Sharma, Deputy Advocate General, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

This is a second petition filed by the petitioner seeking the concession of regular bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.238 dated 28.06.2023 under Section 15 (Sections 25 and 29 added later on) of the NDPS Act, registered at Police Station Pehowa, District Kurukshetra.

2. Learned senior counsel for the petitioner, *inter alia*, contends that a false recovery has been planted upon the petitioner for allegedly transporting 56 kilograms of poppy husk in a truck, and assuming, even for the sake of arguments, though not conceded, that the alleged recovery had indeed been effected from his truck, it was just marginally higher than the minimum classified as commercial under the NDPS Act. He submits that the petitioner has clean antecedents as he is not involved in any other criminal case much less under the NDPS Act. Further, not only the challan stands presented but even charges stand framed, hence his further incarceration would serve no useful purpose as the trial will take considerable time to conclude.

3. *Per contra*, learned State counsel, while opposing the prayer and submissions made by the counsel opposite, on instructions, has not disputed the status of the trial, however, she submits that the recovery effected was of 56 kilograms of poppy husk, which has been classified as commercial; the petitioner was driving the truck when he was intercepted by the police party on suspicion leading to the aforesaid recovery.

4. On a pointed query put to the learned State counsel, she on instructions, has not controverted the submissions made by the learned senior counsel qua the petitioner having clean antecedents and not being involved in any other case under the NDPS Act.

5. In the facts and circumstances as enumerated hereinabove, since there is no likelihood of the trial concluding in the near future, the instant petition is allowed. The petitioner be admitted to bail 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.

6. Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

February 14th, 2024

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**(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No