

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

245

CRM-M-64831-2023

Date of decision: 09.01.2024

Harikesh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Mohit K. Jakhar, Advocate,
Mr. Abhimanu, Advocate and
Mr. Salman Ahmed, 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 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 he has been falsely implicated in the instant case which is evident from the fact that he was merely seated on the rear seat of the car from which the alleged recovery was effected and it was also a matter of record that no recovery of any contraband was effected from the person of the petitioner. He further submits that the procedure for collection of sample of the recovered contraband was faulty as it had been made in violation of the standing order i.e. 1/88 of the guidelines of the NCB; neither the mandate of 10/40 samples was followed nor any separate

sample was sent from each of the packings. It has still further been submitted that the petitioner has now been in custody for almost nine months having been arrested on 08.04.2023 and thus deserves to be extended the concession of bail as not only does he have clean antecedents but there is no possibility of the trial concluding in the near future.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions, has submitted that a specific secret information had been received by the police qua the involvement of the petitioner in the sale and purchase of narcotic substances and the secret information also pertained to the vehicle including its registration number in which the petitioner was travelling and nabbed with the co-accused Satbir. Learned State counsel has further submitted that on being intercepted by the police, an envelope was found on the dashboard of the car from which a huge recovery of 2.5 kgs of charas was effected. Learned State counsel has submitted that all the mandatory provisions of the NDPS Act were duly complied with while effecting the recoveries from the accused including the petitioner. Learned State counsel submits that in the wake of the huge recovery of the contraband effected coupled with the fact that it has been classified as commercial under the Act, the petitioner did not deserve the concession of bail.

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

5. The petitioner has asserted that the procedure prescribed for sample collection had not been properly followed, however, the said

submissions cannot be delved into at this stage as it would be a matter of trial when both the prosecution and the defence lead their respective evidence. Prima facie it does not seem to be a case of false implication as secret information was received qua the involvement of the petitioner as also the vehicle and its registration number in which the petitioner along with the co-accused were travelling and from which the alleged recovery was effected. Mere non-involvement of the petitioner in any other case under the NDPS Act cannot be a ground to extend the concession of bail to the petitioner moreso since the prosecution evidence is yet to commence.

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.

09.01.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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