

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

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2024:PHHC:060618

CRM-M-64262-2023

Date of decision: May 2nd, 2024

Pushkar Lal Ahir

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Aditya Dassaur, Advocate
for the petitioner.

Mr. Rajesh Gaur, Additional 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.190 dated 05.07.2022 under Sections 15 of the NDPS Act, 1985 (Sections 15C/27A/29 of the NDPS Act and Section 201 of the IPC added later on) registered at Police Station Garhi, District Jind.

2. Learned counsel for the petitioner submits that after the withdrawal of the previous petition, wherein similar relief had been sought, not only had the challan been presented, charges framed but even recording of prosecution evidence had commenced. Learned counsel has submitted that the petitioner has been falsely implicated in the instant case only on the basis of a disclosure statement allegedly suffered by co-accused Dharaminder Maratha and Naveen Maratha from whom recovery of 360 kilograms of poppy husk was allegedly affected. Learned counsel has asserted that the evidentiary value of the disclosure statement on the basis of which the petitioner has been arraigned as an accused is of an extremely weak nature, which also needs to be

appreciated from the fact that when the petitioner was arrested on 02.02.2023, no recovery of any contraband was affected either from his possession or pursuant to any disclosure statement suffered by him. It has still further been submitted that there is no likelihood of the trial concluding in the near future as 26 prosecution witnesses still remain to be examined. Hence, no useful purpose would be served to keep him behind bars.

3. On a pointed query, learned counsel for the petitioner has submitted that he is involved in another FIR, wherein again he had been nominated on the basis of a disclosure statement suffered by co-accused and therein as well, no recovery of any contraband was affected from either his conscious possession or pursuant to any disclosure statement suffered by him.

4. Learned State counsel, while opposing the prayer and submissions made by counsel opposite, has not disputed the factual aspect of the role attributed to the petitioner in the crime in question. It has also not been disputed that the petitioner came to be nominated as an accused in the present FIR after nine months of the alleged recovery from co-accused. However, learned State counsel has submitted that as per the disclosure statement suffered by the co-accused, petitioner was the conduit between the suppliers and prospective buyers. Learned State counsel on further instructions has not disputed that no recovery of any contraband was affected when the petitioner was arrested on 02.02.2023. The stage/status of the trial has also not been disputed on instructions by the learned State counsel, who has informed the Court that the next date fixed before the trial Court is 17.07.2024

when some of the remaining prosecution witnesses have been summoned to depose.

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

6. The petitioner has been in custody since 02.04.2023; his name surfaced only in the disclosure statement of co-accused, and that too after nine months of the alleged recovery. The trial is unlikely to conclude in the near future as only one prosecution witness stands examined. Hence, in the facts and circumstances, his further incarceration would serve no useful purpose.

7. Accordingly, 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.

8. 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.

May 2nd, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No