

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.65391 of 2023

Date of decision: 18th April, 2024

Dharam Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sukhveer S. Killianwali, Advocate for the petitioner.

Mr. Amit Rana, Sr. 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.120 dated 03.08.2021 under Sections 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 29 of the NDPS Act added later on) registered at Police Station STF, District SAS Nagar.

2. In compliance of order dated 26.02.2024, learned counsel for the petitioner has submitted that no doubt the petitioner has been previously involved in two other cases under the NDPS Act, however, in one out of those two cases he had undergone the sentence of imprisonment whereas in the other case registered against the petitioner under the NDPS Act trial was still underway. Learned counsel has further submitted that the petitioner came to be nominated as an

accused on the basis of a disclosure statement allegedly suffered by co-accused Binder Singh, from whom recovery of 4000 tablets of Tramadol was affected; the evidentiary value of such a disclosure statement is of a weak nature. It has been further submitted that after the petitioner was arrested, no recovery of any contraband much less tablets of Tramadol was affected from him, which clearly indicates his false implication in the instant case. Learned counsel has also submitted that after charges were framed on 13.05.2022, case was being adjourned time and again on account of non-appearance of the prosecution witnesses, who in the instant case are all officials; bailable and non-bailable warrants had also been issued on few dates for securing presence of the prosecution witnesses, however, in vain. He submits that since only 3 prosecution witnesses out of the 19 cited have been examined till date, there is no possibility of the trial concluding in the near future and hence, the petitioner be enlarged on bail.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Gurmeet Singh, has submitted that no doubt the petitioner was not apprehended with the co-accused Binder Singh, from whom the alleged recovery of 4000 tablets of Tramadol was affected, however, it had come during investigation that the recovered contraband had been procured through the petitioner. Learned State counsel, on further instructions has however not disputed the submissions made by the counsel opposite with regard to the repeated non-appearance of the

prosecution witnesses, even though on some dates they have been summoned through bailable/non-bailable warrants. He has, however, referred to the criminal antecedents of the petitioner which have already been detailed in the earlier part of this order. He, on further instructions, has informed the Court that the next date of hearing fixed before the trial Court is 08.05.2024 when in all likelihood some prosecution witnesses would appear and get their evidence recorded.

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

5. The petitioner has been in custody for more than 2 years, having been arrested on 14.12.2021, and he has been languishing behind bars only on account of the prosecution witnesses failing to appear before the trial Court to get their evidence recorded. Concededly, as per the instructions received by the learned State counsel, no recovery of any contraband was affected after the petitioner was arrested on 14.12.2021. 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

April 18, 2024
rps

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