



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

CRM-M No.49695 of 2024
Date of decision: 11th March, 2025

Balwinder Singh @ Rubi

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Kuldeep V. Singh, Advocate for the petitioner.
Mr. Amit Rana, Sr. Dy. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking the concession of regular bail under Section 439 Cr.P.C. in case bearing FIR No.96 dated 28.06.2021 under Sections 15/29/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Amargarh, District Sangrur.

2. Learned counsel for the petitioner contends that the petitioner has been in custody since 19.12.2022, and despite the lapse of considerable time, the trial has not concluded. It is submitted that out of the 21 prosecution witnesses cited, only 8 have been examined so far.

3. It is further argued that the petitioner has been falsely implicated in the present case, as there is no cogent evidence linking him

to the alleged recovery of 300 kgs of poppy husk. The contraband was found at a Dharamshala, and there is no direct evidence to link the petitioner with the recovered substance.

4. Additionally, learned counsel for the petitioner submits that co-accused Gurcharan Singh @ Pohli has already been granted bail by this Court on 12.12.2024, and, therefore, the petitioner also deserves a similar concession.

5. Per contra, learned State counsel, while vehemently opposing the prayer and submissions made by the counsel opposite, has submitted that the petitioner was specifically named in a secret information regarding his involvement in drug trafficking. As per the secret information, the petitioner and his brother were actively engaged in the illicit trade of narcotic substances and has concealed poppy husk in the Dharamshala, pursuant to which the alleged recovery of 300 kgs of poppy husk was affected.

6. Learned State counsel contends that the sheer quantity of the recovered contraband, multiple times the minimum threshold for a “Commercial Quantity” under the NDPS Act, rules out any possibility of false implication. It has been argued that it is highly improbable that the police would plant such a large quantity on the petitioner.

7. It has been further submitted, on instructions, that the petitioner cannot claim parity with co-accused Gurcharan Singh @ Pohli, as he stands on a different footing. Learned State counsel, on instructions, has submitted that unlike the co-accused, the petitioner has

a history of previous criminal antecedents and is facing trial in four other cases under the NDPS Act. Additionally, it has been brought to the notice of this Court that the petitioner has previously absconded and was declared a proclaimed offender in the present case. The delay in the trial, therefore, is largely attributable to his own conduct, and he cannot now be permitted to take advantage of the same.

8. Moreover, the learned State counsel has expressed an apprehension that, if the petitioner is released on bail, he may abscond again, leading to further delay in the trial. Furthermore, it has been asserted that given his past conduct and multiple involvements in cases under the NDPS Act, there is also a likelihood of the petitioner re-engaging in similar criminal activities.

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

10. The allegations against the petitioner are grave and specific. The alleged recovery of 300 kgs of poppy husk far exceeds the threshold of “Commercial quantity” under the NDPS Act, which, in the case of the poppy husk, is 50 kgs. The argument raised by the learned counsel that the contraband was allegedly found in a Dharamshala (a public place) does not, at this stage, negate the case of the prosecution, especially when the information preceding the recovery directly implicated the petitioner.

11. The claim for parity with co-accused is also untenable. In the present case, the petitioner has a history of multiple involvements in

cases under the NDPS Act and had previously absconded, as a result of which he was declared a proclaimed offender. These factors, without doubt, materially distinguish the case of the petitioner with that of the co-accused. Therefore, in the facts and circumstances as enumerated hereinabove, no ground is made out to extend the concession of bail to the petitioner in the instant case. The petition stands dismissed. 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.

12. However, in view of his long incarceration, the learned trial Court shall make earnest efforts to expedite the trial and conclude it at the earliest.

(MANJARI NEHRU KAUL)
JUDGE

March 11, 2025
rps

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