



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

205

CRM-M-34061-2024
Date of decision: 17.01.2025

Partap Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. G.K. Mann, Sr. Advocate with
Mr. Gursharan Singh, Advocate and
Mr. Adees Sharma, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

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.0269 dated 28.08.2023 under Sections 307 of the IPC, Section 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') and Sections 25 and 27 of the Arms Act, 1959 registered at Police Station Special Task Force, District SAS Nagar (Mohali).

2. On 08.01.2025, learned senior counsel for the petitioner had made the following submissions:-

“Learned senior counsel for the petitioner submits that the petitioner has been falsely implicated in the instant FIR, as per which, he was allegedly found in possession of 350 grams of heroin. It is contended that the purported recovery of the contraband neither was effected at the instance of the petitioner nor was it found in his conscious possession. Learned senior counsel further submits that the alleged recovery was made after the petitioner had been admitted to the Civil Hospital in an



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injured condition and in the absence of any independent witnesses, raising serious doubts about the veracity of the prosecution case.

It is further argued that the alleged recovery of 350 grams of heroin was in fact deliberately fabricated to shield police officials who had fired upon the petitioner, causing him firearm injuries. It has been further emphasized that the petitioner was not even present at the scene when the recovery is alleged to have taken place, underscoring the contrived nature of the charges.

Additionally, it is asserted that the petitioner has now been in custody since 31.08.2023. Despite the challan being filed on 23.02.2024, the trial has been proceeding at an exceptionally slow pace. Of the 24 prosecution witnesses, only 04 have been examined so far, making it unlikely that the trial will conclude in the near future. It has, thus, been vehemently submitted that this undue delay has further prejudiced the right of the petitioner to a fair and speedy trial.”

3. In addition, learned senior counsel for the petitioner submits that although as per the case of the prosecution, the petitioner on being intercepted by the police, had fired from a pistol towards the police party, however, strangely none of the police officials, who were part of the police party, received any injury in the alleged occurrence and furthermore till date no challan had been presented under the Arms Act; however, in the absence of any material on record, the learned Trial Court had erroneously proceeded to frame charges under the Arms Act against the petitioner.

4. Per contra, learned State counsel while opposing the prayer made by learned senior counsel for the petitioner, on instructions from SI Sanjeev Kumar, has not disputed the custody period of the petitioner nor has he disputed that out of the 27 prosecution witnesses cited, only 04 have been examined. However, it has been reiterated by the learned



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State counsel, on instructions, that a secret information was received qua the involvement of the petitioner in drug trafficking pursuant to which when the petitioner was intercepted by the police, he attempted to flee and thereafter fired towards the police party; a recovery of firearm along with empties was also effected from the spot which had been sent to the Forensic Science Laboratory (FSL) and corroborated the case as put up by the prosecution in the charge sheet, which has been filed against the petitioner. Learned State counsel, however, on being pointedly asked as to whether any challan had been presented against the petitioner for an offence under the Arms Act, has on instructions replied in the negative but submitted that it had been on account of the fact that sanction had not yet been received from the District Magistrate concerned till date. It has, however, not been disputed that the petitioner had been indeed charged with an offence under the Arms Act even though challan had not been presented for any offence under the Arms Act. On further query put to the learned State counsel as to when sanction had been sought from the District Magistrate concerned for proceeding against the petitioner under the Arms Act, he submitted that it was soon after the receipt of FSL report on 02.07.2024. Learned State counsel has submitted that as and when the necessary sanction would be accorded, supplementary challan would then be presented against the petitioner for offence under the Arms Act.

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



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6. The petitioner has been in custody since 31.08.2023. The petitioner is not stated to be involved in any other case under the NDPS Act. As on date 04 prosecution witnesses out of the 24 cited, have been examined till date. The possibility, therefore, of the trial concluding in the near future looks unlikely. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

7. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds 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 add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

17.01.2025

Vinay

**(MANJARI NEHRU KAUL)
JUDGE**

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