

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

208

CRM-M-34406-2021

Decided on : 04.04.2022

Nadeem

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Gagan Bajaj, Advocate,
for the petitioner(s).

Mr. Abhay Pal Singh Gill, DAG, Punjab
assisted by Gurmukh Singh.

MANJARI NEHRU KAUL, J. (Oral)

This is the fourth petition filed under Section 439 Cr.P.C. for grant of bail to the petitioner in case FIR No. 254, dated 24.09.2019, under Sections 22 & 29 (added later on) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity 'NDPS Act'), registered at Police Station City Rajpura, District Patiala (annexed as Annexure P-1).

On a pointed query put to the learned counsel as to what was the material change in circumstances subsequent to the withdrawal of the previous petition on 24th March, 2021, he submitted that the charges had since been framed on 08th September, 2021.

Learned counsel submits that after 08th September, 2021, no progress has taken place in the trial and rather it has come to a stand still. It has been further submitted that the petitioner has now been in custody since 24th September, 2021 and there is no likelihood of the trial concluding anytime in the near future, as none of the 14 prosecution

witnesses cited, have been examined so far. Learned counsel has submitted that it was a case of chance recovery, wherein, a false recovery of 40 strips containing 60/60 capsules in each strip totaling 2400 intoxicant capsules of ALPRESASE, was allegedly effected from a plastic bag, which the petitioner was carrying at the time of his apprehension by the police.

Learned counsel for the petitioner submits that no doubt that the alleged recovery falls within 'commercial quantity', however, keeping in view his long incarceration, he be extended the concession of bail, more so, since he is not involved in any other criminal case, much less, under the NDPS Act.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions ASI Gurmukh Singh, that the petitioner, who is a native of Uttarakhand, was apprehended on the basis of suspicion by the police party and a huge recovery of 2400 intoxicant capsules of ALPRESASE, was effected from the bag, which the petitioner was carrying on his person. Learned State counsel has submitted that the delay in the conclusion of the trial has been on account of the outbreak of the pandemic, however, since the Courts have resumed normal functioning, there is every likelihood that the trial would not take much time to conclude. He has further submitted that the investigating officer and the recovery witnesses have been summoned by the Trial Court for 29th April, 2022.

Learned State counsel has also opposed the grant of concession of bail to the petitioner in view of the bar created under Section 37 of the NDPS Act. Learned State counsel has further

controverted the submissions made by the counsel opposite *qua* he not being involved in any other criminal case. It has been submitted that though the petitioner is not in any other NDPS case, however, the petitioner is involved in a case under Section 52-A of the Prison Act.

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

In the wake of the huge recovery of contraband effect from the petitioner coupled with the bar created under Section 37 of the NDPS Act, this Court is not inclined to extend the concession of bail to the petitioner.

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.

At this stage, a request has been made by learned counsel for the petitioner for issuing directions to the trial Court to expedite the trial in the wake of his long incarceration.

Keeping in view the prayer made by learned counsel for the petitioner coupled with the fact that the petitioner has been in custody since 24th September, 2019, the trial Court concerned is directed to expedite the trial and make all endeavours to conclude the same expeditiously, preferably on or before 31st July, 2022.

(MANJARI NEHRU KAUL)
JUDGE

April 04, 2022

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*