

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.4050 of 2022 (O&M)
Date of decision: 29th November, 2023

Mandeep Singh @ Manna

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Navkiran Singh, Ms. Arshdeep Kaur &
Mr. Yashpal Thakur, Advocates for the petitioner.
Mr. Mohit Kapoor, Addl. 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.154 dated 24.12.2021 under Section 21/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station City Kurali, District SAS Nagar (Mohali).

2. Learned counsel for the petitioner inter alia submits that the petitioner has been in custody for almost two years, having been arrested on 24.12.2021, for allegedly having been found in possession of 300 grams of Heroin from a car, which was being driven by him. He submits that after the challan was presented on 18.06.2022, charges were framed on 22.07.2022, however, till date only 3 witnesses out of the 17 cited by the prosecution had been examined, and hence, the liberty granted to the petitioner under Article 21 of the Constitution of India could not be compromised for reasons not attributable to him, but to the prosecution

and prosecution alone, as their witnesses had not been putting in appearance to get their evidence recorded. It has also been urged by the learned counsel that the petitioner is not involved in any other case under the NDPS Act. A prayer has therefore, been made for extending the concession of bail to the petitioner, as his further incarceration would serve no useful purpose.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has submitted that the recovery of 300 grams of Heroin effected from the petitioner has been categorized as commercial and it was pursuant to a secret information the petitioner along with co-accused Gurmukh Singh was nabbed by the police party. However, he has not been able to dispute that as on date only 3 prosecution witnesses stand examined after charges were framed on 22.07.2022. It has also not been disputed by the learned State counsel that the petitioner is not involved in any other case under the NDPS Act, though, he submits that the petitioner stands convicted for an offence punishable under Section 376 IPC.

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

5. The petitioner has now been in custody since 24.12.2021 and there is no likelihood of the trial concluding in the near future as 14 prosecution witnesses still remain to be examined.

6. Hon'ble the Supreme Court in '***Dheeraj Kumar Shukla Vs. State of Uttar Pradesh***' (SLP(Crl.) No.6690/2022) decided on **25.01.2023** has observed as under:-

“.... It is true that the quantity recovered from the petitioner is commercial in nature and the provisions of Section 37 of the Act may ordinarily be attracted. However, in the absence of criminal antecedents and the fact that the petitioner is in custody for the last two and a half years, we are satisfied that the conditions of Section 37 of the Act can be dispensed with at this stage, more so when the trial is yet to commence though the charges have been framed.”

7. In the facts and circumstances as enumerated hereinabove and the observations made by Hon’ble the Supreme Court in **Dheeraj Kumar Shukla’s case (ibid)**, this Court 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.

8. 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

November 29, 2023
rps

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