

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

206-3

CRM-M-4516-2023

Date of decision: 13.10.2023

Mohammad Altaf Teeli

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Raj Kumar Gupta, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (third) petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.196 dated 15.07.2020 under Sections 15, 25, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Shahkot, District Jalandhar (Rural).

2. Learned counsel for the petitioner submits that the petitioner was not apprehended at the spot by the police party but came to be nominated as an accused on the basis of a disclosure statement allegedly suffered by co-accused Malkiat Singh and Amarjit Singh who was apprehended at the spot along with 125 kgs of poppy husk. Learned counsel submits that as per the allegations levelled after being apprehended, a recovery of 100 kgs of poppy husk was effected from him. Learned counsel submits that the false implication of the petitioner is evident from the fact that he has clean antecedents and is not involved in any other criminal case much less under the NDPS Act.

It has also been submitted that the petitioner has been in custody since 15.07.2020 and till date the trial has not concluded as 07 out of the 19 prosecution witnesses still remain to be examined.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not been able to dispute that the petitioner was not apprehended at the spot and still further that the petitioner is not involved in any other criminal case much less under the NDPS Act. He, on instructions, however, submits that after the petitioner was nominated as an accused in the disclosure statement of co-accused Malkiat Singh and Amarjit Singh and thereafter a recovery of 100 kgs of poppy husk was effected from a truck which was being driven by the petitioner.

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

5. 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.”

6. Hon'ble the Supreme Court recently in the case of ***Raju Ram Vs. State of Bihar : 2023 (1) Crimes 109***, observed as under:-

“6. It is true that trial has commenced and out of 8 witnesses, 2 witnesses have reportedly been examined by

the Trial Court. However, the conclusion of trial will still take some time. The petitioner has no criminal antecedents. The period which the petitioner has already spent in custody is sufficient to exempt the rigours of Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985.”

7. The petitioner has been in custody for more than 03 years and 03 months. As also not disputed by the learned State counsel he is not involved in any other criminal case much less under the NDPS Act. The trial is unlikely to conclude in the near future. In the facts and circumstances as enumerated hereinabove, this Court deems it appropriate to dispense with the conditions of Section 37 of the NDPS Act. The petitioner be admitted to bail subject to his furnishing heavy surety 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.

13.10.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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