

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

215

CRM-M-10841-2023

Date of decision: 24.04.2023

Pargat Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Amit Arora, Advocate
for the petitioner.

Mr. Ramdeep Partap Singh, 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.0046 dated 15.04.2021 under Sections 22(C) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Sirhali, District Tarn Taran.

2. This is the second petition filed under Section 439 of the Cr.P.C. seeking similar relief, the previous one having been dismissed as withdrawn on 10.05.2022.

3. On a pointed query put to the learned counsel for the petitioner as to what was the material change in circumstances subsequent to the withdrawal of the previous petition, he submits that the trial has come to a virtual standstill as even charges have not been framed till date even though the challan was presented way back on 08.10.2021. It has also been submitted that co-accused Prem Singh @ Prema who was allegedly apprehended with the petitioner along with

contraband had since been extended the concession of bail by a Coordinate Bench of this Court vide order dated 02.02.2023 (Annexure P-1). Learned counsel for the petitioner submits that the petitioner has now been in custody since 15.04.2021 for allegedly having been found in possession of 4200 intoxicant tablets of Lomotil containing Diphenoxylate salt. He submits that it was a case of chance recovery wherein the police party apprehended the petitioner as well as the co-accused and allegedly recovered the contraband in question from a plastic bag which both of them were holding in their hands. Learned counsel submits that it is in fact a case of false implication and that was the reason why the prosecution was seeking repeated adjournments before the Trial Court.

4. In support, learned counsel for the petitioner has drawn the attention of this Court to the zimni orders annexed as Annexure P-5 wherein also it stands reflected that the case has been adjourned time and again, for reasons not attributable to the petitioner, but to the prosecution itself. He has relied upon a judgment of the Hon'ble Supreme Court in ***Satender Kumar Antil Versus Central Bureau of Investigation and another [2022 (10) SCC 51]*** to contend that repeated adjournments in such like situation seriously affect the Fundamental Rights under Article 21 of the Constitution of India.

5. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not been able to controvert the factual aspect of the matter that the trial has come to a standstill as the case is being repeatedly adjourned for reasons not attributable to the petitioner.

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

7. In the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail 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. It is made clear that in case the petitioner is found misusing the concession of bail, the State would be at liberty to seek cancellation of his bail.

24.04.2023

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(MANJARI NEHRU KAUL)
JUDGE

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