

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

211

2023:PHHC:100909

CRM-M-18875-2022

Date of decision: August 4th, 2023

Balwinder Singh alias Kuldeep Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. G.S. Sandhu, Advocate
for the petitioner.

Mr. Gaurav Garg Dhuriwala, Additional Advocate General,
Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.215 dated 31.12.2021 under Sections 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Kotbhai, District Sri Muktsar Sahib.

2. Learned counsel for the petitioner has placed on record copies of zimni orders passed by the trial Court, which are taken on record.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was allegedly apprehended by the police with 1000 intoxicant tablets (275 grams) of Tramadol in a case of chance recovery on 31.12.2021. He submits that even through he has now been in custody for more than 1½ years having been arrested on 31.12.2021, not even a single prosecution witness has been examined till date.

He submits that even after the charges were framed on 25.08.2022, the

trial Court had been adjourning the case time and again, which is evident from the zimni orders which have been placed on record today, wherein it clearly stands reflected that the trial has not been able to make any progress for reasons not attributable to the petitioner but to the prosecution witnesses, who admittedly are all official witnesses and have not been putting in appearance for getting their evidence recorded. Learned counsel has submitted that in the facts and circumstances, his further incarceration shall serve no useful purpose as the trial will take considerable time to conclude.

4. *Per contra*, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, has submitted that the recovery effected of 1000 intoxicant tablets fall under the commercial quantity, however, he has been unable to dispute, on instructions, that the trial has not made any progress after the charges were framed on 25.08.2022.

5. On a pointed query put to learned State counsel as to whether the petitioner is involved in any other criminal case, he on instructions, has replied in the negative.

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

7. The petitioner is in custody since 31.12.2021; the recovery effected from the petitioner is marginally higher than the commercial quantity. As per zimni orders which have been placed on record, the proceedings before the trial Court have been adjourned on as many as 16 dates after the charges were framed.

8. 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.

9. Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the bail granted to him.

August 4th, 2023
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No