

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-19282-2023

Date of decision: 04.05.2023

Sukhwinder Singh alias Babbu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Preetwinder Singh Dhaliwal, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition (second) has been filed by the petitioner for grant of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.156 dated 06.10.2021 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station City-1 Mansa, District Mansa.

2. Learned counsel for the petitioner inter alia contends that a false and fabricated case has been planted upon the petitioner for having been found in possession of 1000 tablets of Alprazolam in a case of chance recovery. Learned counsel submits that the alleged recovery was effected from a polythene bag which he was carrying in his hands. Learned counsel submits that the recovery effected is marginally higher than the minimum prescribed under the commercial quantity. It has also been submitted that false implication of the petitioner finds further credence from the fact that he does not have any

criminal past much less being involved in a case under the NDPS Act. Learned counsel submits that as the petitioner has now been in custody since 06.10.2021 and only 01 out of the 12 prosecution witnesses cited has been examined till date, there is no likelihood of the trial concluding in the near future. It has been submitted that delay in the trial has not been on account of reasons attributable to the petitioner but for reasons attributable to the prosecution for which he cannot be made to suffer further incarceration.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, submits that the challan was presented on 21.12.2021 and charges were framed on 24.02.2022 and thereafter 01 prosecution witness stands examined. He submits that the remaining prosecution witnesses in all likelihood would be examined in the coming dates. However, he has not been able to dispute that the delay in the conclusion of the trial has not been for reasons which can be attributed to the petitioner.

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

5. The petitioner has now been in custody since 06.10.2021 and the trial is being delayed for reasons not attributable to him but to the prosecution coupled with the fact that only 01 out of the 12 prosecution witnesses has been examined so far. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

6. Accordingly, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the Trial Court/Duty Magistrate

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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.

7. It is clarified that in case the petitioner is found misusing the concession of bail and is involved in any other criminal case, the State would be at liberty to approach this Court for cancellation of bail.

04.05.2023
Vinay

(MANJARI NEHRU KAUL)
JUDGE

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