

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

CRM-M No.25850 of 2020
Date of decision: 9th May, 2023

Samsher Singh @ Nikka

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ripudaman S. Sidhu, Advocate for the petitioner.
Mr. Chetan Sharma, Dy. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.137 dated 11.06.2020 under Sections 22B/61 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as, 'the Act') registered at Police Station Kalanwali, District Sirsa (Haryana).

Learned counsel for the petitioner inter alia contends that the petitioner has been falsely implicated in the case in hand and a huge recovery of 990 tablets of Tramadol (841.5 grams) has been planted upon him on account of he owing allegiance to a different political party than the one presently ruling the State. It has been further submitted that at the time of search, mandatory provisions of Section 50 of the Act were not complied with, as the officer was not a gazetted

officer. It has also been contended that the petitioner has now been in custody since 11.06.2020 and the trial has been unnecessarily delayed on account of non-appearance of the prosecution witnesses, hence, he be extended the concession of bail as trial will take a considerable time to conclude.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has drawn the attention of this Court to the zimni orders which have been filed before this Court. He submits that no doubt on a couple of occasions, prosecution witnesses had indeed not put in appearance, however, a perusal of most of the zimni orders revealed that the case had been adjourned on account of the outbreak of pandemic as well as on account of the Presiding Officer being on leave on a couple of dates. He has also drawn the attention of this Court to the zimni order dated 03.08.2021, wherein it stands noticed that Ravi Kumar SDO, in whose presence recovery of the contraband was effected, could not be examined on account of the heavy work on that particular day and also because the Court time was over. Learned State counsel has also brought to the notice of this Court order dated 03.09.2022 of the Court below, wherein it stands noticed that three prosecution witnesses were present on the said date, however, on account of the fact that Court was busy recording evidence in a case remanded by the Hon'ble Supreme Court, evidence of the prosecution witnesses in the instant case, could

not be recorded. Learned State counsel submits that now the case is fixed for 28.07.2023, when all the formal witnesses have been summoned and their evidence would be recorded. Learned State counsel submits that once the evidence of all the formal witnesses is recorded, trial shall not take much time to conclude. He has also controverted the submissions of the counsel opposite that the alleged recovery was not effected in the presence of a gazetted officer. He submits that the recovery was effected in the presence of Ravi Kumar, SDO, DHBVNL, who is a gazetted officer.

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

Prima facie, there are serious allegations levelled against the petitioner of having been found in possession of a huge quantity of contraband which falls under the commercial quantity. The trial shall not take much time to conclude as only formal witnesses remain to be examined, as per instructions received by the learned State counsel. In the circumstances, this Court does not deem it fit to extend the concession of bail to the petitioner. The petition accordingly stands dismissed. However, it is made clear that anything contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

At this stage, a request has been made by the learned counsel for the petitioner for directing the trial Court to expedite the trial in view of his long incarceration.

The trial Court shall make earnest efforts to conclude the trial expeditiously, preferably within a period of next six months from today.

(MANJARI NEHRU KAUL)
JUDGE

May 9, 2023
rps

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