

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

CRM-M No.32338 of 2022

Date of decision: 11th September, 2023

Dilbag Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Virender Soni, Advocate for the petitioner.

Mr. Rahul Mohan, Sr. Dy. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.297 dated 25.10.2020 under Sections 22(C), 27(A) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Sadar Tohana, District Fatehabad.

2. Learned counsel for the petitioner inter alia contends that the petitioner has been in custody since 25.10.2020 for having been found in possession of two plastic bags, containing 20000 tablets and 19960 tablets of Tramadol, when the car, in which the petitioner was traveling with the co-accused, was stopped by the police party. He submits that the petitioner has no criminal antecedents. It has been further submitted that the trial has come to a virtual stand still as after the challan was presented on 18.06.2021, charges have not yet been framed. Learned counsel further submits that as many as 25 prosecution witnesses have been cited and in the facts and circumstances as enumerated hereinabove, there is no

likelihood of the trial concluding in the near future. A prayer has therefore, been made for extending the concession of bail to the petitioner, as his further incarceration would serve no useful purpose, more so when the co-accused Beant Singh has already been extended the concession of bail by a Coordinate Bench of this Court vide order dated 13.07.2023.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Surender, has submitted that the petitioner along with four others were traveling in a car when it was stopped on suspicion. While the other co-accused managed to flee away from the spot, the petitioner along with co-accused Beant Singh were apprehended and thereafter, when the search was carried out a huge recovery, which already stands detailed in the preceding paragraph, was effected. Learned counsel, on further instructions, has submitted that the trial has not been able to make any headway on account of the fact that the remaining 5 accused are still at large and efforts are being made to nab them.

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

5. The petitioner has now been in custody for almost 3 years, having been arrested on 25.10.2020 and the charges have still not been framed. As many as 25 prosecution witnesses have been cited by the prosecution and hence, the trial would take considerable time to conclude. The petitioner is not stated to be involved in any other criminal case much less under the NDPS Act. Co-accused Beant Singh has already

been extended the concession of bail by a Coordinate Bench of this Court.

6. 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.”

7. In the facts and circumstances, as enumerated hereinabove, this Court thus deems it fit to extend the concession of bail to the petitioner. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. 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 here, in case the petitioner misuses the concession of bail, the State would be at liberty to approach this Court for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)
JUDGE

September 11, 2023
rps

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