

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

1. CRM-M No.36304 of 2021

Paramjeet Kaur @ Pammi

... Petitioner

Versus

State of Punjab

... Respondent

2. CRM-M No.41438 of 2021

Nisha Rani

... Petitioner

Versus

State of Punjab

... Respondent

Date of decision: 20th September, 2023

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. I.S. Dhaliwal, Advocate for the petitioners.

Mr. Amit Rana, Sr. Deputy Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioners in both the petitions detailed hereinabove are seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.415 dated 11.12.2020 under Section 22(c)/61 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Lambi, District Sri Muktsar Sahib.

2. Learned counsel for the petitioners inter alia submits that the petitioners have been in custody since 12.12.2020 for having been found in possession of 7750 tablets of Radol-100 (containing Tramadol Hydrochloride). Learned counsel submits that after the charges were

framed on 06.08.2021, trial of the case has come to a virtual stand still as only 1 prosecution witness out of the 22 cited has been examined. While drawing the attention of this Court to the zimni orders, learned counsel has submitted that the case has been adjourned as many as 27 times by the trial Court, however, the prosecution witnesses, who are all official witnesses, have failed to step into the witness box to get their evidence recorded. He submits that the petitioners, who have clean antecedents, cannot be made to languish behind bars for no fault of theirs. A prayer has therefore, been made for extending the concession of bail to the petitioners, as their further incarceration would serve no useful purpose.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Amrik Singh, has not been able to controvert that the case has been repeatedly adjourned on account of non-appearance of the prosecution witnesses. It has also not been disputed that as on date, only 1 prosecution witness out of the 22 cited has been examined.

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

5. The petitioners have now been in custody since 12.12.2020 and as not disputed by the learned State counsel, trial has come to a virtual stand still on account of the prosecution witnesses not stepping into the witness box to get their evidence recorded. There is, thus, no likelihood of the trial concluding in the near future as 21 prosecution witnesses still remain to be examined.

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 and the observations made by Hon'ble the Supreme Court in ***Dheeraj Kumar Shukla's case (ibid)***, this Court thus deems it fit to extend the concession of bail to the petitioners. Both the present petitions, as such, are allowed and the petitioners are 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 petitioners misuse 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 20, 2023

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No