

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

220

2023:PHHC:161340

CRM-M-31567-2023

Date of decision: December 14, 2023

Mandeep Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ashok Giri, Advocate
for the petitioner.

Mr. Mohit Kapoor, Additional A.G., Punjab
for respondent No.1-State.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking concession of regular bail in FIR No.68 dated 04.06.2022 under Sections 15/25/29 of Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Badhni Kalan, District Moga.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner, no doubt, was driving the vehicle from which the alleged recovery of 50 bags of poppy husk was effected, however, he was merely an employee of co-accused Balbir Singh in whose name the truck in question was registered. Learned counsel submits that he was thus, totally unaware about the contents of 50 bags which had been loaded into the truck along with 375 bags of cattle feed. It has also been further submitted that the petitioner has clean antecedents as it is a matter of record that he has never been involved in any other criminal case much less under the NDPS Act. It has still further been submitted that after the petitioner was arrested on 04.06.2022, only 1 out of the 18 prosecution witnesses cited, had been examined till date, hence, the

possibility of the trial concluding in the near future was remote.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite has submitted that a recovery of 10 quintals of poppy husk was effected; the contraband was being transported in 50 different bags which had been camouflaged along with the bags containing cattle feed. Learned State counsel has however, not disputed that the petitioner was the driver of co-accused Balbir Singh and some other persons who too were present in the truck, and against whom some more cases under the NDPS Act stand registered.

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

5. The petitioner has been in custody for more than 1 year and 6 months, having been arrested on 04.06.2022; after the challan was presented and charges framed on 30.11.2022, only one prosecution witness out of the 18 cited has been examined. Hence, trial would take considerable time to conclude. As per instructions received by the learned State counsel, the petitioner is not involved in any other criminal case much less under the NDPS Act.

6. Hon'ble 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 deems it appropriate to allow the instant petition by dispensing with the conditions of Section 37 of the NDPS Act.

8. Accordingly, the instant petition is allowed. 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 same.

December 14, 2023

ps

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No