

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

108+221

CRM-M-45746-2021 (O&M)

Date of decision: 07.11.2023

Amritpal Singh Johal

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Satnam Singh Gill, Advocate
for the petitioner.

Mr. Digvijay Nagpal, AAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-38004-2023

For the reasons mentioned in the application, the same is allowed and copies of documents mentioned in the application are taken on record as Annexures P-5 to P-9 subject to all just exceptions.

CRM-M-45746-2021

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.25 dated 10.06.2021 under Sections 21, 25, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Mehal Kalan, District Barnala.

2. Learned counsel for the petitioner inter alia contends that the petitioner was allegedly apprehended with 350 grams of intoxicant powder by the police on 10.06.2021. It has been submitted that a false recovery has been planted upon the petitioner. Learned counsel further submits that even though the challan was presented way back on

03.12.2021 and charges framed on 20.04.2022 the trial had failed to make much progress as only 02 prosecution witnesses out of the 19 cited had been examined till date. Hence, there was no likelihood of the trial concluding in the near future. It has also been submitted that false implication of the petitioner in the case in hand finds due credence from the fact that he has clean antecedents as he is not involved in any other case under the NDPS Act.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not disputed that after the charges were framed on 20.04.2022 only 02 prosecution witnesses out of the 19 cited, had been examined.

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

5. The petitioner has been in custody since 10.06.2021. The petitioner, as also not disputed by the learned State counsel, is not involved in any other case under the NDPS Act. The trial is unlikely to conclude in the near future.

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. The petitioner be admitted to bail on his furnishing bail/surety bonds 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 add, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

07.11.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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