

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

224

CRM-M-49526-2023

Date of decision: 06.10.2023

Inderjit Singh @ Rana

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Gurmeet Kaur, Advocate and
Ms. Srishti Shukla, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.158 dated 03.11.2021 under Sections 15 and 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Khuian Sarwar, District Fazilka.

2. Learned counsel for the petitioner inter alia contends that the petitioner has been in custody since 03.11.2021 for having allegedly been found in possession of 24000 tablets of Tramadol along with 18 kgs of poppy husk. She submits that a perusal of the zimni orders right after 30.05.2022, when the charges were framed in the case in hand, reveals that the trial has not progressed and come to a standstill on account of the prosecution witnesses not stepping into the witness box to get their evidence recorded. Learned counsel submits that in the circumstances, the petitioner cannot be made to languish in custody for

reasons not attributable to him and in fact, his liberty under Article 21 of the Constitution of India has been severely compromised on account of the lackadaisical approach and conduct of the official respondents. A prayer has, therefore, been made for extending the concession of bail to the petitioner, as his 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 HC Kewal Krishan, has submitted that a huge quantity of 24000 tablets of Tramadol, which falls under the commercial quantity, was recovered from the petitioner along with 18 kgs of poppy husk. He prays for the dismissal of the instant petition in the wake of the huge recovery effected from the petitioner. However, learned State counsel, on instructions, has not been able to controvert that trial has come to a standstill only on account of non-appearance of the prosecution witnesses, who in the case in hand, are all police officials.

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

5. It certainly does not lie in the mouth of the State to oppose the prayer of the petitioner for being extended the concession of regular bail. A perusal of the zimni orders of the Trial Court which have been placed on record by the learned counsel for the petitioner reveal that as many as 11 dates were fixed by the Trial Court for evidence. The prosecution witnesses, who are none other than the police officials, did not care to show their faces in the Court for their evidence; resultantly on 25.09.2023 bailable warrants were issued to procure the presence of

one of the witnesses. This Court is constrained to observe that this is not for the first time that it has come to the notice of this Court that on account of the prosecution witnesses, especially in cases registered under the NDPS Act, not putting in appearance to get their evidence recorded before the Trial Court, the accused have been approaching this Court for being extended the concession of bail on account of their long incarceration. Despite repeated assurances having been given by the State that the matter would be looked into as to why prosecution witnesses especially in cases registered under the NDPS Act have been repeatedly absenting themselves before the Trial Court to get their evidence recorded, the situation has not improved, rather it has only worsened. On each of the previous occasions when such like cases were brought to the notice of this Court and the petitioner sought the concession of bail, the Senior Superintendents of Police of the Districts concerned were asked to present themselves before this Court and an assurance was given that in future no such thing would happen and strangely as and when this Court reprimanded the Senior Superintendents of Police, on the very next date before the Trial Court, the prosecution witnesses conveniently stepped into the witness box to get their evidence recorded. The conduct of the police officials raises a big question mark about their competence as also does give rise to some suspicion that there could be some unholy nexus between the accused facing trial under the NDPS Act and the police officials, to ensure on account of their long incarceration, the accused become eligible for being extended the concession of bail. It is high time that the State wakes up from its slumber and takes effective remedial steps

to streamline the working of the police force, more so, when the menace of drugs has penetrated deep into the society and is spreading like termites. Either the Senior Superintendents of Police are ineffective and helpless or else the only inference which could be safely drawn is that such prosecution witnesses who are not putting in appearance before the Court to get their evidence recorded are enjoying tacit support of their superiors.

6. The petitioner has been in custody since 03.11.2021. After the charges were framed on 30.05.2022, not even a single witness out of the 17 cited, has been examined till date, for reasons not attributable to the petitioner. In the facts and circumstances, depriving the petitioner of person freedom without ensuring a swift trial for him would be violative of Article 21 of the Constitution of India which guarantees right to life and personal liberty. The accused in the case in hand has already endured a substantial proportion of the likely sentence, if that were to happen, hence, this Court would be obligated to grant him bail, irrespective of the gravity of the offence for which he has been charged with.

7. Accordingly, the instant petition is allowed. The 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.

8. 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.

9. Before parting with the order, it is apposite to observe here that police officials in not appearing before Trial Courts to record their evidence are abdicating their duty towards the State as well as towards the cause of justice, which is something the society can ill-afford. The writing is on the wall, and the ever increasing menace of drugs is staring us in the face, which we can ignore only at our own peril.

10. A copy of this order be sent to Principal Secretary, Department of Home Affairs, Punjab to look into the matter and to take corrective measures, as may be necessitated.

06.10.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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