

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

**CRM-M-60740-2022 (O&M)
Date of decision:15.03.2023**

Ashok Kumar @ Shoki

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.

Present: Mr. Charanpreet Singh, Advocate for
Mr. B.S. Kathuria, Advocate for the petitioner.

Mr. Ramdeep Partap Singh, Sr. DAG, Punjab.

...

MANJARI NEHRU KAUL, J. (ORAL).

This is the 4th petition under Section 439 Cr.P.C. filed by the petitioner seeking concession of regular bail in case FIR No.7 dated 23.01.2018 under Section 22 of the NDPS Act, Sections 419, 420, 465, 467, 468, 471, 177, 120-B IPC and Section 12 of the Passports Act registered at Police Station Mukandpur, District SBS Nagar.

On a pointed query having been put to the learned counsel for the petitioner as to what was the material change in circumstances after the previous petition was withdrawn in July, 2022, he submits that not only has he now been in custody for more than 4 years, but only 16 prosecution witnesses out of the total 31 cited have been examined.

Learned counsel appearing for the petitioner further *inter alia* contends that as per the allegations levelled in the FIR which has been reproduced in the body of the petition, the police party chased the petitioner and upon seeing the police party, the petitioner fled away after parking his

car from which recovery of 15 injections of Buprenorphine, 15 injections of AVIL, six passports, an amount of Rs.12,270/-, I.D. Card of a Sarpanch and various other documents was effected. Learned counsel submits that on the face of it, it was evidently a case of false implication as it could not have been possible for the petitioner to flee from the spot, without being caught by the police party, who admittedly were about 08 in number. It has also been contended that the petitioner has been in custody since 07.01.2019 and the prosecution evidence is still underway, hence, the trial shall take considerable time to conclude.

Per contra learned State counsel on instructions has submitted that no doubt the petitioner was not apprehended on the spot but the vehicle which was found at the spot, was registered in the name of his wife. He has also submitted that the petitioner stands convicted in one case under the NDPS Act in which his sentence was suspended on 20.03.2017. On a further query put to the learned State counsel, he has submitted that there is no other criminal case pending against him.

Heard learned counsel for the parties and perused the relevant material on record.

There is no likelihood of the trial concluding in the near future as 15 prosecution witnesses remain to be examined.

The petitioner has been in custody since 11.01.2019. Therefore further incarceration of the petitioner would serve no useful purpose.

This Court, in the facts and circumstances as enumerated hereinabove, deems it fit to extend the concession of bail to the petitioner.

Accordingly, the present petition is allowed. The petitioner be admitted to

bail to the satisfaction to 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.

It is, however, made clear that the petitioner shall appear before the trial Court on each and every date of hearing. Further, in case the petitioner is found to be involved in any criminal case in future, the State shall be at liberty to approach this Court for cancellation of bail.

(MANJARI NEHRU KAUL)
JUDGE

15.03.2023

harjeet

(i) Whether speaking/reasoned?	Yes/No
(ii) Whether reportable?	Yes/No