

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

240

CRM-M-2838-2024

Date of decision: 24.01.2024

Amandeep Singh @ Aman

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. P.S. Sekhon, Advocate for the petitioner.

Mr. A.P.S. Tung, DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (second) petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.79 dated 06.09.2022 under Sections 18, 18-C and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station division No.1, Ludhiana, District Ludhiana.

2. Learned counsel for the petitioner inter alia contends that the petitioner has been in custody for more than a year and four months having been arrested on 06.09.2022, after having been found in alleged possession of 2 kg 600 grams of opium. Learned counsel submits that it is a case of false implication and even assuming for the sake of arguments though not conceded that some recovery had indeed been effected from the petitioner, it was just marginally higher than the minimum classified as 'commercial' under the NDPS Act. Learned counsel submits that after the challan was presented on 25.11.2022, charges were framed on 10.02.2023, however, till date only 03

prosecution witnesses out of the 13 had been examined and hence, there was no likelihood of the trial concluding in the near future.

3. On a pointed query put to the learned counsel for the petitioner as to whether the petitioner has any criminal antecedents, he has replied in the negative.

4. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from ASI Dharamvir Singh, has not been able to dispute that after the charges were framed on 10.02.2023, only 03 prosecution witnesses had been examined out of the 13 cited. It has been further submitted that the next date fixed before the Trial Court is 01.02.2024 when some prosecution witnesses are likely to be examined.

5. On a pointed query put to the learned State counsel as to whether the petitioner is involved in any other criminal case, he, on instructions has submitted that the petitioner is not involved in any other criminal case under the NDPS Act, however, he is involved in one case under Section 406, 120-B of the IPC.

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

7. The petitioner has been in custody since 06.09.2022. 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.

8. 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.”

9. 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.

10. 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.

11. 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.

24.01.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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