

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

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2024:PHHC:012590

CRM-M-3467-2024

Date of decision: January 30th, 2024

Jaspal Singh @ Baallu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Arnav Ghai, Advocate
for the petitioner.

Mr. Mohit Kapoor, Additional Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.179 dated 16.09.2021 under Section 22 of the NDPS Act registered at Police Station Nihal Singh Wala, District Moga.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been in custody for more than 2 years and 4 months having been arrested on 16.09.2021. He submits that a false recovery of 900 tablets of Clonazepam was planted upon the petitioner. It has been further submitted that the petitioner has clean antecedents as he is not involved in any other criminal case much less under the NDPS Act. It has also been submitted that after the challan was presented on 28.02.2022, charges were framed on 04.04.2022, however, none of the 30 prosecution witnesses had been examined till date. Hence, there was no likelihood of the trial concluding in the near future.

3. On a pointed query put to the learned counsel as to whether the petitioner was involved in any other criminal case, he has replied in the negative.

4. Learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has informed that a secret information was received qua the petitioner and it was only thereafter, the police raided his house, wherein a recovery of 900 tablets of Clonazepam was effected, which has been classified as commercial under the NDPS Act. It has also been submitted that the petitioner had been granted the concession of interim bail after the registration of the FIR on 24.12.2021 on account of his critical condition by this Court and probably that was one of the reasons why the trial had been delayed. Learned State counsel has however not disputed that the petitioner has clean antecedents and is not involved in any other case under the NDPS Act. He has, on further instructions, informed the Court that the next date fixed before the trial Court is 18.03.2024 when some prosecution witnesses are likely to be examined.

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

6. The petitioner has been in custody since 16.09.2021. The trial is unlikely to conclude in the near future.

7. 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.”

8. 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.
9. 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.
10. 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.

January 30th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No