

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

212 (2 cases)

1. CRM-M-3554-2023
Date of decision: 01.03.2024

Rajinder Singh @ RajaPetitioner

Versus

State of PunjabRespondent

2. CRM-M-17251-2023
Date of decision: 01.03.2024

Rukmandeep Singh @ RukmanPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ranbir Singh Sekhon, Advocate
for the petitioner in CRM-M-3554-2023.

Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner in CRM-M-17251-2023.

Mr. Iqbalpreet Singh, AAG, Punjab and
Mr. Navdeep Singh, DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioners are seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.113 dated 19.06.2020 under Sections 21/61 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Sadar Ferozepur, District Ferozepur.

2. Learned counsel for the petitioners inter alia contend that the petitioners have been in custody since 19.06.2020 and till only 01

witness out of the 20 cited by the prosecution has been examined. Learned counsel submit that after the charges were framed on 28.10.2021, it is apparent that the trial had come to a virtual standstill. It has been further submitted that the only role attributed to the petitioners in the FIR in question is that a secret information was received that both of them were going to village Khalchian Kadim to purchase heroine and while they were on their way, they were intercepted by the police and a recovery totalling 150 grams of heroin was effected while they were travelling with two others in a car. Learned counsel submit that since they have no criminal antecedents, it lends credence to their false implication in the instant case. Reliance has been placed on ***Dheeraj Kumar Shukla Vs. State of Uttar Pradesh (SLP(Crl.) No.6690/2022) decided on 25.01.2023.*** It has been asserted that since the trial has not progressed beyond the examination of one of the witnesses for reasons attributable to the prosecution and prosecution alone, the petitioners cannot be made to languish in custody.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioners, on instructions from DSP Sukhwinder Singh, has not been able to dispute the submissions made by the counsel opposite that till date only 01 prosecution witness stands examined out of the 20 cited; it has also not been disputed that the petitioners have clean antecedents as they are not involved in any other criminal case. Learned State counsel, on instructions, has also not disputed that the only role attributed to the petitioners was that they both along with co-accused were on their way to village Khalchian Kadim for purchasing contraband, when they were nabbed by the police

pursuant to a secret information.

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

5. The petitioners have been in custody since 19.06.2020. The petitioners, as also not disputed by the learned State counsel, are 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 petitions by dispensing with the conditions of Section 37 of the NDPS Act.

8. Accordingly, both the petitions are allowed. The petitioners be admitted to bail on their 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 petitioners misuse the

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concession of bail granted to them, the State would be at liberty to seek
cancellation of the same.

01.03.2024

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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