



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

222

CRM-M-3593-2024

Date of decision: 23.07.2024

Ramandeep Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Fariad Singh Virk, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.88 dated 16.06.2022 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station City-II, Khanna, District Ludhiana.

2. Learned counsel for the petitioner has filed copies of zimni orders of the learned Trial Court in the Court today, which are taken on record subject to all just exceptions.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been implicated in a false case and has now been in custody since 16.06.2022. Despite the challan being presented on 30.11.2022, and charges framed on 05.01.2023, not even a single prosecution witness has been examined till date. While drawing the attention of this Court to the zimni orders which have been placed



on record today, it has been argued that a perusal of the same unequivocally demonstrates that the trial has been stalled due to the persistent non-appearance of the prosecution witnesses, who in the present case, are all police officials. It has also been submitted that it stands revealed in the zimni orders that bailable/non-bailable warrants have also been issued repeatedly to secure the presence of these prosecution witnesses/officials, yet they have consistently failed to testify. It has, therefore, been urged that under the aforementioned circumstances, especially given that the petitioner is not involved in any other criminal case, it would be unjust to keep him in custody due to reasons attributable to the prosecution and prosecution alone.

4. Per contra, learned State counsel has vehemently opposed the prayer and submissions made by the counsel opposite by citing the substantial recovery of 1200 tablets of Alprazolam and 11580 tablets of Lomotil from the petitioner. However, on instructions from ASI Sukhwinder Singh, it has been conceded that the prosecution witnesses have indeed repeatedly failed to appear before the learned Trial Court to get their evidence recorded despite issuance of bailable/non-bailable warrants. It has also not been disputed that the petitioner is not involved in any other criminal case.

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

6. This Court is constrained to note with profound dismay the blatant lackadaisical approach and conduct of the prosecution, which has brought the trial in the present case to a standstill. It needs to be



pointed out that this Court has observed similar dereliction in other cases registered under the NDPS Act also, where prosecution witnesses routinely have failed to appear before the learned Trial Court without any justifiable reason. Despite previous assurances given by the learned State counsel and police officials, who had been asked to appear before this Court, including one occasion when the DGP, Punjab had also been directed to appear before this Court, and who had assured that these issues with respect to the repeated absence of prosecution witnesses before the learned Trial Court would be addressed, these assurances have evidently proven ineffective. Rather, they highlight a severe lapse in enforcement and commitment on the authorities responsible for ensuring the appearance of witnesses before the learned Trial Court.

7. The continuous non-appearance by prosecution witnesses, particularly the police officials before the learned Trial Court, indicates blatant disregard for directions issued by a Court of Law or in the alternative could be suggestive of a collusion with the accused. Such conduct not only undermines the judicial process but also also makes out a ground for accused persons to seek bail due to their prolonged custody, even in cases involving seizure of huge quantities of contraband.

8. Article 21 of the Constitution of India guarantees the right to life and personal liberty, which also includes a right to speedy trial. This fundamental right ensures that the case of an accused is decided without undue delay. When the State or the prosecution fails to uphold this right, it cannot justifiably oppose a prayer made for bail by an



CRM-M-3593-2024

-4-

accused, based on the severity of the alleged crime. It needs to be emphatically emphasized that the constitutional mandate of Article 21 of the Constitution of India applies universally; regardless of the nature of the offence. Therefore, the inability of the prosecution and obvious non-cooperation by the prosecution witnesses in failing to get their evidence recorded, invalidates its opposition to bail.

9. Adverting to the present case, and as not disputed by the learned State counsel none of the prosecution witnesses have been examined till date before the learned Trial Court. Hence, the possibility of the trial concluding anytime in the near future is unlikely. The petitioner is not involved in any other criminal case, much less under the NDPS Act. Hon'ble the 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.”

10. In the facts and circumstances as enumerated hereinabove, this Court, thus, deems it appropriate to allow the instant petition by dispensing with the conditions of Section 37 of the NDPS Act. 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.

23.07.2024

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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