

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

243

**2024:PHHC:028131**  
**CRM-M-4632-2024**  
**Date of decision: February 28, 2024**

SATNAM SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

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

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

Mr. Navdeep Singh, Deputy Advocate General, Punjab  
with Inspector Partap Singh.

**MANJARI NEHRU KAUL, J. (ORAL)**

1. The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.68 dated 04.06.2022 (Annexure P-1) under Sections 15, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Badhni Kalan, District Moga.
2. Before proceeding further, it would be apposite to reproduce the relevant portion of the FIR in question, which has been annexed as Annexure P-1, hereinbelow: -

*“To the Station House Officer Badhni Kalan, "Fateh". Today ASI alongwith Sr. Ct Kuljinder Singh 1167/Moga, Sr. Ct Shivjant Singh 1128/Moga, Sr. Ct Dilraj Singh 1081/Moga, PHG Ram Singh 23419 were travelling in our government vehicle bearing number PB-29-X-6634 and the same was being driven by ASI Harjinder Singh 602/Moga and were patrolling in search of bad elements/persons and when we were patrolling in the area of our police station and during patrolling when the police party reached near the chaurasta of Raonke Road near petrol pump, then a secret informer after signalling the ASI to stop the vehicle and informed him that Mandeep Singh son of Mukhtiar Singh resident of Village Daulewala Mair who is having a*

*closed body canter (Container) color Red bearing no. HR 46 C 1841 and in that he is having poppy husk and he after loading the same is coming from Barnala side to Moga GT Road. If nakabandi is being done, then Mandeep Singh alongwith Poppy Husk and canter can be caught. On the information, ASI alongwith the help of other police officials did a nakabandi at Nanaksar That, Badhni Kalan and after sometime a closed Body Canter (Container) color Red bearing No. HR 46 C 1841 came there and the same was being driven by young men and the same was being signalled to stop and after bringing the driver out of the canter, who was wearing light kesri color parna, blue color jeans and white color T-Shirt. On being asked about his name and address, the said person disclosed his name as Mandeep Singh son of Mukhtiar Singh resident of Daulewala Mair District Moga and the old age person who was sitting on the conductor seat and who was wearing light blue color shirt and black trouser and on being asked about his name and address, the said person disclosed his name as Satnam Singh son of Gurcharan Singh resident of Banga Bet, Tehsil Balachaur, District Nawanshahr. The information being reliable and correct. Mandeep Singh and Satnam Singh for keeping in their canter poppy husk has committed an offence under Section 15-61-85 of NDPS Act. After registering the ruqa, the same is being sent to the police station at the hands of PHG Ram Singh 23419 for registering the FIR against Mandeep Singh and Satnam Singh. After registering the FIR, the number of the FIR may be intimated. Special reports be prepared. PCR Moga be intimated. As per the direction of Hon'ble Punjab and Haryana High Court, a phone call is being made to the SHO Badhni Kalan for sending the second investigating officer at the spot and he informed that he himself is coming at the spot. ASI alongwith other police officers are present at the spot. Sd/- Baljinder Singh ASI PS Badhni Kalan Dated 04.06.2022. Today Near Gate That Nanaksar Badhni Kala at 10.40 A.M.”*

3. Learned counsel for the petitioner *inter alia* contends that the petitioner just happened to be present alongside the co-accused, who was driving the vehicle from which a recovery of 50 bags of poppy husk was effected. Learned counsel submits that the petitioner has clean antecedents and he was not even aware about the contents of the bags, which had been loaded into the truck alongwith 375 bags of cattle feed. Learned counsel has further

submitted that the petitioner, who is a 70 year old man, has now been in custody since 04.06.2022 and till date, the trial has not concluded as it is a matter of record that only 1 witness has been partly examined out of the 18 cited by the prosecution. Learned counsel has also contended that a perusal of the *zimni* orders right from 16.12.2022 i.e. the date when the charges were framed, reveal that the learned trial Court had been adjourning the case repeatedly for no fault of the petitioner but only on account of either the petitioner not being produced by the jail authorities or on account of the prosecution witnesses absenting themselves during trial to get their evidence recorded. Learned counsel for the petitioner, while placing reliance on ***Dheeraj Kumar Shukla Vs. State of Uttar Pradesh [SLP(Crl.) No.6690/2022]***, has submitted that in the circumstances, keeping in view the clean antecedents of the petitioner as well as his long incarceration, the petitioner cannot be made to languish in custody and for which, he deserves to be enlarged on bail. It has also been submitted that identically placed co-accused Mandeep Singh has been extended the concession of bail vide order dated 14.12.2023.

4. Learned State counsel has filed the custody certificate of the petitioner in the Court today, which is taken on record subject to just exceptions. While opposing the prayer and submissions made by the learned counsel for the petitioner, learned State counsel, on instructions, has not disputed the stage of the trial and also the submissions made by the counsel opposite that the trial has been delayed for no fault of the petitioner but only on account of either the jail authorities not producing the petitioner before the learned trial Court or the prosecution witnesses failing to appear before the learned trial Court for getting their evidence recorded. Learned State counsel

has also not disputed that the petitioner is not involved in any other criminal case, much less under the NDPS Act. However, he has submitted that the petitioner was present with co-accused Mandeep Singh inside the truck when it was intercepted by the police on suspicion, leading to the recovery of huge contraband of 50 bags of poppy husk, which has been classified as 'commercial' under the NDPS Act.

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

6. The petitioner has been in custody since 04.06.2022; after the challan was presented and charges framed on 16.12.2022, only 1 witness out of the 18 cited by the prosecution has been examined and that too, partially. Hence, the trial would take considerable time to conclude.

7. The 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 add here, in case the petitioner is found misusing the concession of bail, the State would be at liberty to approach this Court to seek cancellation of bail to him.

**February 28, 2024**  
*Jaspreet Kaur/Sonia*

**(MANJARI NEHRU KAUL)**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No