

CRM-M-8239-2024

Date of decision:22.02.2024

Sohan Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Gurpal Singh Sandhu, Advocate for the petitioner.

Mr. Navdeep Singh, DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking regular bail under Section 439 of the Cr.P.C. in case FIR No. 22 dated 19.03.2022 under Section 22(C)/29 of Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Smalsar District Moga.

2. Learned counsel for the petitioner inter alia contends that the petitioner has been falsely implicated in the case in hand as is evident from the fact that he has no criminal antecedents and has never been involved in any other case under the Act. It has further been submitted that after the petitioner was arrested on 19.03.2022 the challan was presented on 03.09.2022 and the charges thereafter were framed on 18.10.2022. However till date the trial had not concluded and only four prosecution witnesses out of 12 had been examined so far. Learned

counsel submits that the delay in the trial has been on account of non appearance of the prosecution witnesses for which he cannot be made to languish in custody.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions from ASI Satnam Kaur has submitted that a huge recovery of 1800 intoxicant tablets was effected from the petitioner and co-accused (who has since been enlarged on bail) while they were both intercepted riding a motor-cycle. However he has not been able to dispute that after the challan was presented on 03.09.2022 and charges framed on 18.10.2022 only four prosecution witnesses had been examined till date. Learned State counsel, on instructions, has also not controverted that the petitioner is not involved in any other criminal case much less under the NDPS Act.

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

5. The petitioner has been in custody since 19.03.2022. the petitioner concededly is not involved in any other criminal case. The case in hand is unlikely to conclude in the near future as the next date fixed before the trial Court is 07.03.2024 when some more prosecution witnesses are likely to examine out of the remaining 12.

6. 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."

7. In the facts and circumstances as enumerated hereinabove and the observations made by Hon'ble the Supreme Court in ***Dheeraj Kumar Shukla's case (ibid)***, this Court deems it fit to extend the concession of bail to the petitioner. The petition as such is allowed and the petitioner is admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. 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 petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of

the same.

22.02.2024

(MANJARI NEHRU KAUL)

JUDGE

Divyanshi

Whether speaking/reasoned

Whether reportable

:

:

:

Yes/No

Yes/No

Yes/No