



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

218

CRM-M-7873-2024

Date of decision: July 24th, 2024

Ranjit Singh @ Bablu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Vipul Jindal, Advocate
for the petitioner.

Mr. Amit Rana, Senior Deputy 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.102 dated 05.05.2022 registered under Sections 21 and 29 of the NDPS Act, 1985 and Section 25 of the Arms Act, 1959, at Police Station Kotwali, Kapurthala.

2. Learned counsel for the petitioner submits that even though he was arrested way back on 05.05.2022, till date, the trial had not concluded on account of the continuous non-appearance of prosecution witnesses. It has also been submitted that identically placed co-accused Gurpreet Singh @ Gopy, who was also apprehended along with the petitioner had since been extended the concession of bail by this Court vide order dated 23.01.2024 (Annexure P-5). It has been further argued by the learned counsel that a recovery of 50 grams of heroin (intermediatory quantity) was shown to have been affected from the petitioner pursuant to a secret information received by the police,

however, the mandatory provisions of the NDPS Act including Section 42 and Section 50 were complied with at the relevant time. It has also been submitted that the petitioner has clean antecedents and has never been involved in any other criminal case much less under the NDPS Act. A prayer has, therefore, been made that in the aforementioned facts and circumstances, more so when the conclusion of the trial has been delayed on account of the non-appearance of the prosecution witnesses, the petitioner be enlarged on bail.

3. Learned State counsel, however, has vehemently opposed the prayer and submissions made by the counsel opposite by submitting that no doubt, initially only a recovery of 50 grams of heroin was affected from the pocket of the petitioner's trousers, however, thereafter pursuant to a disclosure statement, another recovery of 500 grams of heroin along with a firearm was affected. Learned State counsel, however, on instructions has not been able to disputes the stage of the trial and also that none of the 19 witnesses cited by the prosecution have been examined till date after the charges were framed on 10.03.2023.

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

5. The petitioner has been in custody since 05.05.2022. The trial is unlikely to conclude in the near future.

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, this Court deems it appropriate to allow the instant petition by dispensing with the conditions of Section 37 of the NDPS Act.
8. 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.
9. 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.

July 24th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No