



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

214

CRM-M-12563-2024 (O&M)

Date of decision: 13.11.2024

Parminder Kumar @ Verma

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. David Sardana, Advocate
for the petitioner.

Mr. Navdeep Singh, DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.01 dated 02.01.2023 under Sections 22, 61, 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Division No.4 (Lahori Gate), Patiala.

2. In compliance of order dated 06.11.2024, learned counsel for the petitioner has placed on record all the zimni orders with effect from 28.06.2023 to 28.10.2024. A perusal of all the zimni orders which have been placed on record indeed reveal that even though the charges were framed on 17.11.2023, however, till date only 01 prosecution witness out of the 19 has been examined and on most of the dates either the prosecution witnesses have absented themselves despite issuance ofailable warrants or the co-accused have not been produced by the jail authorities before the learned Trial Court.



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3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case; he was apprehended on suspicion and thereafter a recovery of 10000 intoxicant tablets was allegedly effected from him. A prayer has, therefore, been made by learned counsel that in the aforementioned facts and circumstances, there is no likelihood of the trial concluding in the near future and hence, the petitioner deserves to be enlarged on bail as he cannot be made to languish in custody for no fault of his, and await the appearance of the prosecution witnesses to get their evidence recorded.

4. A pointed query has been put to the learned counsel for the petitioner as to whether the petitioner has any previous criminal antecedents to which he submits that although the petitioner was previously booked in one case under the NDPS Act, however, he stands acquitted in the same.

5. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from ASI Subash Chand and Inspector Gagandeep Singh, has not disputed that the petitioner has been in custody since 02.01.2023, challan was presented on 28.06.2023 and charges were framed on 17.11.2023; despite the charges having been framed almost a year back only 01 prosecution witness has been examined and on most of the dates the learned Trial Court had to adjourn the matter on account of the absence of the prosecution witnesses. Learned State counsel has, however, submitted that a huge recovery of 3000 tablets of Tramadol and 7000 intoxicant tablets was effected from the petitioner when he was nabbed



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on suspicion by the police. Learned State counsel has on further instructions not disputed that although the petitioner was previously booked in one case under the NDPS Act, however, he stands acquitted in the same.

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

7. The petitioner has been languishing in custody since 02.01.2023 and a perusal of the zimni orders which have been placed on record by learned counsel for the petitioner today, reveals that the prosecution witnesses have absented themselves before the learned Trial Court despite issuance ofailable warrants. No doubt, the recovery effected from the petitioner is huge, however, the petitioner cannot be made to languish in custody to await the appearance of the prosecution witnesses. The trial is unlikely to conclude in the near future on account of the lackadaisical attitude of the prosecution witnesses. 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.”

8. In the facts and circumstances as enumerated hereinabove, this Court deems it appropriate to allow the instant petition by



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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.

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.

10. Pending applications, if any, stand disposed of.

13.11.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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