

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.14656 of 2024

Date of decision: 2nd April, 2024

Jagjeet Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Deepak Aggarwal, Advocate for the petitioner.

Mr. Navdeep Singh, Dy. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.35 dated 28.02.2022 under Sections 15(c)/25/27/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Talwandi Sabo, District Bathinda.

2. Learned counsel for the petitioner inter alia contends that he has been in custody since 22.02.2022 in the instant case; as per the allegations levelled in the FIR, he was apprehended at the spot along with co-accused Tarsem Singh, who has since been extended the concession of bail by this Court on 05.03.2024. Learned counsel has submitted that the petitioner has been languishing in custody awaiting the conclusion of trial, however, there seems no likelihood of the same concluding any time in the near future as it is a matter of record that the

prosecution witnesses had been time and again absenting themselves before the trial Court, as a result of which recording of the evidence of all these witnesses has not even been completed. Learned counsel has submitted that in the circumstances, the petitioner cannot be made to languish in custody for reasons attributable to the prosecution and prosecution alone. In support, learned counsel has drawn the attention of this Court to various judicial pronouncements including '**Dheeraj Kumar Shukla Vs. State of Uttar Pradesh**' (SLP(Crl.) No.6690/2022) decided on 25.01.2023, wherein on account of the long incarceration of the accused, they had been enlarged on bail by Hon'ble the Supreme Court. On a pointed query put to the learned counsel as to whether the petitioner has any criminal antecedents, he has fairly submitted that the petitioner was previously involved in one other case under the NDPS Act in the State of Punjab, however, it is a matter of record that he had since been acquitted in the said case; in another case though convicted under the NDPS Act in the State of Rajasthan, however, his sentence had been suspended by Hon'ble the Rajasthan High Court by categorically noticing that the provisions of the NDPS Act had not been adhered to in entirety and thus, there were remote chances of conviction of the petitioner being sustained. In support, learned counsel has drawn the attention of this Court to Annexure P-6, which is order of the Hon'ble Rajasthan High Court suspending the sentence of the petitioner in the second case registered against him under the NDPS Act.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Rajinder Kumar, has submitted that the petitioner along with co-accused were intercepted by a police party on suspicion and thereafter, a recovery of 697 kgs of poppy husk effected, which had been loaded in a truck owned by none other than the petitioner. It has, however, not been disputed by the learned State counsel, on instructions, that the petitioner stands acquitted in the other case under NDPS Act which was registered against him in the State of Punjab whereas in the second case registered against him under the NDPS Act in the State of Rajasthan, his sentence had been suspended. However, learned State counsel has submitted that out of 20 witnesses cited by the prosecution, as on date 3 stand examined excluding one who has been partially examined. On a pointed query put to the learned State counsel as to whether the case of the petitioner was at par with that of his co-accused Tarsem Singh, who had been extended the concession of bail by this Court, he on instructions, has replied in the affirmative but has contended that the reason why co-accused Tarsem Singh had been granted bail was on account of non-appearance of the prosecution witnesses during the course of trial.

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

5. The petitioner has now been in custody since 22.02.2022. It is evident that the trial has been prolonged only on account of repeated

non-appearance of the prosecution witnesses, who in the case in hand are all officials. The co-accused Tarsem Singh too was granted the concession of regular bail precisely for the aforesaid reason. There is no likelihood of the trial concluding in the near future as 13 witnesses cited by the prosecution still remain to be examined. 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 to the satisfaction of the trial Court/Duty Magistrate. 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.

6. Needless to add here, in case the petitioner misuses the concession of bail, the State would be at liberty to approach this Court for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)
JUDGE

April 2, 2024
rps

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