

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.18070 of 2024
Date of decision: 10th May, 2024

Sukhwant Singh @ Sukha
... Petitioner
Versus
State of Punjab
... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. S.S. Maini, Advocate for the petitioner.
Mr. Amit Rana, Sr. 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.85 dated 04.04.2021 under Sections 22(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 29 of the Act added later on) registered at Police Station City Faridkot, District Faridkot.
2. Learned counsel for the petitioner submits that he has been falsely implicated in the instant case along with co-accused and a recovery of 1500 tablets of Tramadol then planted upon him. He submits that false implication of the petitioner in the present case finds credence from his non-involvement in any criminal case much less under NDPS Act. Learned counsel has further submitted that though challan was presented way back on 10.07.2021 and charges framed on

11.11.2021, the trial had not yet concluded as 9 prosecution witnesses still remained to be examined. He has also submitted that the delay in conclusion of the trial is for reasons attributable to the prosecution as the prosecution witnesses had not been regularly appearing before the trial Court. Learned counsel has placed reliance upon the ratio of law laid down by Hon'ble the Supreme Court in '***Dheeraj Kumar Shukla Vs. State of Uttar Pradesh***' (SLP(Crl.) No.6690/2022) decided on **25.01.2023**, wherein it has been 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.”

3. A prayer has therefore, been made for extending the concession of bail to the petitioner, as his further incarceration would serve no useful purpose.

4. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions, has not been able to dispute the stage of the trial. It has also not been disputed that the petitioner has no criminal antecedents and has never been involved in any other criminal case much less under the NDPS Act. He

has, however, reiterated that the alleged recovery affected from the petitioner has been classified as commercial under the NDPS Act.

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

6. The petitioner has been in custody for more than three years, having been arrested on 04.04.2021. Conclusion of the trial has evidently been delayed on account of irregular appearance of the prosecution witnesses during trial. 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.

7. 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

May 10, 2024
rps

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