

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

208

CRM-M-18898-2024

Date of decision: 26.04.2024

Jasveer Singh alias Sheera

.....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, DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (second) petition is seeking the concession of bail under Section 439 of the 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 (for short, 'the NDPS Act') registered at Police Station Talwandi Sabo, District Bathinda.

2. Learned counsel for the petitioner inter alia contends that he has been in custody since 28.02.2022 in a case of false implication. As per allegations levelled by the prosecution on the fateful day the police found a truck parked on one side of the road; the petitioner was found carrying a loaded gunny bag along with other accused. The said gunny bags were being loaded into the truck. When the contents of the gunny bag were checked, it was found to contain poppy husk. Learned counsel has also asserted that though the petitioner was alleged to be carrying poppy husk to the truck, however, the petitioner was not even

the registered owner of the truck. Learned counsel has submitted that after he was arrested, challan was presented on 22.08.2022 and thereafter charges framed on 05.09.2022, however, till date only 04 prosecution witnesses had been examined, hence, there was no likelihood of the trial concluding in the near future. It has still further been urged that the petitioner could not be made to languish in custody for an indefinite period, moreso when it was a matter of record that the conclusion of the trial had been delayed on account of non-appearance of prosecution witnesses, who in the instant case were all officials. Learned counsel has also submitted that co-accused namely Tarsem Singh, Raja Singh and Jagjeet Singh, who too were allegedly apprehended along with the petitioner, had been granted the concession of bail by this Court on account of their long custody period; further, this Court while granting bail to the co-accused had taken note of the fact that the delay in the conclusion of the trial had been on account of the non-appearance of the prosecution witnesses. Learned counsel has submitted that in the aforementioned facts and circumstances, the petitioner be also enlarged on bail.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not disputed that after the charges were framed on 05.09.2022, only 04 out of the 20 prosecution witnesses had been examined. It has also not been disputed on instructions that the other 03 co-accused had been enlarged on bail precisely for the reason that the prosecution witnesses had not been regularly appearing before the learned Trial Court to get their evidence recorded. Learned State counsel has, however, submitted that

the petitioner was found at the spot along with the other co-accused loading gunny bags containing poppy husk into a truck; the total recovery of poppy husk was 697 kgs. Learned State counsel submits that in the circumstances the involvement of the petitioner in drug trafficking cannot be ruled out and is rather obvious.

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

5. The petitioner has been in custody since 28.02.2022. Challan was presented on 22.08.2022 and as not disputed by the learned State counsel, the trial has made very slow progress ever since then. 16 prosecution witnesses still remain to be examined. Though learned counsel for the State has submitted that though previously also the petitioner was involved in another case under the NDPS Act, however, he had since been discharged in the said case. 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.”

6. 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.

7. 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.

8. 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.

26.04.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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