

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

213

CRM-M-20838-2023

Date of decision: 09.02.2024

Paramjit Kaur

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Arshdeep Singh Brar, Advocate
for the petitioner.

Mr. Mohit Kapoor, Addl. A.G., 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.107 dated 16.05.2022 under Sections 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Dharamkot, District Moga.

2. Learned counsel for the petitioner inter alia contends that the petitioner, who is a lady, has been falsely implicated in the case in hand for allegedly transporting 250 tablets of Etizolam; challan was presented on 02.08.2022 followed by framing of charges on 17.10.2022, however, till date the prosecution evidence had not concluded as in the past 01 year and 04 months, only 02 prosecution witnesses out of the 12 cited, had been examined. Learned counsel submits that the petitioner cannot be made to languish in custody for reasons attributable to the prosecution since it was on account of the non-appearance of their witnesses that the trial was being delayed.

Learned counsel has also submitted that the petitioner has clean antecedents as she is not involved in any other criminal case much less under the NDPS Act. In support, he has placed reliance on ***Dheeraj Kumar Shukla Vs. State of Uttar Pradesh (SLP(Crl.) No.6690/2022)*** ***decided on 25.01.2023***, wherein in identical circumstances, the accused was granted bail by the Hon'ble Supreme Court.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not been able to dispute that after the charges were framed, more than 01 year and 04 months back on 17.10.2022, only 02 prosecution witnesses had been examined and that the petitioner was in no manner responsible for the delay in the conclusion of the trial.

4. On a pointed query put to the learned State counsel as to whether the petitioner has any criminal antecedents, he, on instructions has replied in the negative. However, he has submitted that since the recovery effected from the petitioner has been classified as commercial under the NDPS Act, she did not deserve to be enlarged on bail.

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

6. The petitioner has been in custody since 16.05.2022 and the trial is being delayed for reasons not attributable to her but to the prosecution. The petitioner, as also not disputed by the learned State counsel, is not involved in any other case under the NDPS Act. The trial is unlikely to conclude in the near future.

7. Hon'ble 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 dispensing with the conditions of Section 37 of the NDPS Act.

9. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on her 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.

10. Needless to add, in case the petitioner misuses the concession of bail granted to her, the State would be at liberty to seek cancellation of the same.

09.02.2024

Vinay

(MANJARI NEHRU KAUL)

JUDGE

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