



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-21700-2024

Date of decision: 12.08.2024

Dilmohandip Singh @ Anshi

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE MANJARI NEHRU KAUL

Present: Mr.Sukhwinder S. Dhillon, Advocate, for the petitioner.

Mr.Amit Rana, Sr.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.182 dated 24.07.2022 under Sections 21, 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (offence under Sections 27 and 29 of the NDPS Act added later on), registered at Police Station Lambi, District Sri Muktsar Sahib.

2. Learned counsel for the petitioner submits that a perusal of the FIR, which has been annexed as Annexure P-1, reveals that on the face of it the petitioner is innocent; as per the contents of the FIR itself, it stands mentioned that when the police party was going on a government vehicle they noticed two clean shaven persons including the petitioner trying to peep into an envelope which was lying on the ground; on seeing the police party they panicked and threw the envelope away. On suspicion both the



petitioner and the co-accused were apprehended leading to the search on the envelope which was lying on the ground from which then a recovery of 1000 tablets of Tramadol and some intoxicants powder was allegedly affected. Learned counsel submits that the petitioner has clean antecedents and is not involved in any other criminal case much less under the NDPS act. It has been submitted that even assuming for the sake of argument though not conceded that the petitioner was indeed peeping into the envelope which was lying on the ground when he was apprehended on suspicion by the police, it could not in any manner, connect the petitioner with the contraband in the said packet it may have been just out of curiosity. Learned counsel further submits that the petitioner has been in custody for more than 2 years having been arrested on 24.07.2022. It has been further submitted that after the challan was presented on 19.01.2023; charges were framed on 18.03.2023, however, till date only 2 witnesses out of the 13 cited by the prosecution have been examined. Hence the petitioner could not be made to languish in custody as trial would still take a long time to conclude. Learned counsel has submitted that in identical circumstances, Hon'ble the Supreme Court in *Dheeraj Kumar Shukla Vs. State of Uttar Pradesh [SLP(Crl.) No.6690/2022]* had extended the concession of bail to the accused therein by dispensing with the conditions of Section 37 of the NDPS Act.



3. Per contra learned State counsel, while opposing the prayer and submissions made by the counsel opposite, has not disputed the contents of the FIR in question. However it has been submitted that the bag which was found on the ground contained 1000 tablets of Tramadol which has been classified as commercial quantity under the NDPS Act. Learned State counsel, on further instructions, has not disputed the stage of the trial and also the factum of the petitioner having no criminal antecedents.

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

5. The petitioner has been in custody since 24.07.2022. The possibility of the trial concluding in the near future seems remote. The petitioner is not involved in any other criminal case much less under the NDPS Act. 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 and the petitioner is extended the concession of 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.

(MANJARI NEHRU KAUL)
JUDGE

August 12, 2024
poonam

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