



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

216

CRM-M-25231-2024

Date of decision: 24.05.2024

Navdeep Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Gurpal Singh Sandhu, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner in the instant (third) petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.89 dated 01.09.2021 under Sections 22, 25, 27, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Joga, District Mansa.

2. Learned counsel for the petitioner submits that the petitioner has been in custody since 01.09.2021. While drawing the attention of this Court to the FIR in question, which has been annexed as Annexure P-1, learned counsel has submitted that the petitioner was allegedly apprehended on suspicion and a recovery of 4870 tablets of Tramadol then planted upon him. Learned counsel has submitted that the petitioner has no criminal antecedents, much less being involved in any other case under the NDPS Act. After the challan was presented on 18.02.2022, charges were framed on 08.04.2022, however, it was a matter of record that on as many as 36 occasions, the case had to be



CRM-M-25231-2024

-2-

adjourned on account of the non-appearance of the prosecution witnesses, who in the instant case, are all officials.

3. Learned counsel has further submitted that in view of the irregular appearance of the prosecution witnesses as on date, only 15 prosecution witnesses have been examined out of the 31 cited, hence, there is no likelihood of the trial concluding in the near future and the petitioner thus cannot be made to languish in custody for reasons not attributable to him but to the prosecution and prosecution alone. Learned counsel, in support, has placed on reliance on ***Dheeraj Kumar Shukla Vs. State of Uttar Pradesh [SLP(Crl.) No.6690/2022]***, wherein, in almost identical circumstances, Hon'ble the Supreme Court had granted the concession of bail to the accused even though the recovery effected from him had been classified as 'commercial'.

4. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not disputed the submissions made by the counsel opposite qua only 15 prosecution witnesses having been examined by the prosecution till date and as many as 36 adjournments sought by the prosecution. He, however, submits that the recovery effected from the petitioner i.e. 4870 tablets of Tramadol has been classified as 'commercial' under the NDPS Act, further, co-accused Dharam Singh, who was travelling with the petitioner at the relevant time, was also apprehended along with 21000 intoxicant tablets.

5. On a query put to the learned State counsel as to whether the petitioner has any criminal antecedents, he, on instructions, has



CRM-M-25231-2024

-3-

replied in the negative.

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

7. The 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 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.

10. 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.

24.05.2024

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(MANJARI NEHRU KAUL)
JUDGE

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