



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

126+213

CRM-M-28350-2024 (O&M)

Date of decision: 05.07.2024

Sandeep Kumar Dangi

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Partap Singh, Advocate,
Mr. Gourav Jangra, Advocate and
Mr. Vikas, Advocate
for the petitioner.

Ms. Trishanjali Sharma, DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)
CRM-26400-2024

For the reasons mentioned in the application, the same is allowed and translated/typed/photocopies of zimni orders, disclosure statements of Ramesh Kumar dated 12.07.2020 and 13.07.2020 are taken on record as Annexures A-1 to A-3 subject to all just exceptions.

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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.145 dated 12.07.2020 under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') (Sections 18(b), 27-A, 29 of the NDPS Act added lateron) registered at Police Station Cheeka, District Kaithal.

2. At the outset a query has been put to the learned counsel



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for the petitioner as to what is the material change in circumstances after the previous petition under Section 439 of the Cr.P.C. was withdrawn on 15.09.2023, it has been submitted that besides the long custody period of the petitioner, the trial has not proceeded beyond the stage of charges as none of the 39 witnesses cited by the prosecution have been examined till date.

3. On merits, learned counsel for the petitioner has argued that even as per the case of the prosecution, the petitioner was not present with the co-accused from whom the alleged recovery of 31 kgs of opium was effected; the petitioner came to be nominated as an accused on the basis of confession made by him before the police, which is hit by the provisions of the Indian Evidence Act, being inadmissible in law. Learned counsel has submitted that after the petitioner was arrested on 21.11.2021, admittedly no recovery of either any contraband or even any other incriminating material was effected from him which clearly hinted towards a false and fabricated case having been planted upon him. 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'. Attention of this Court has also been invited to Annexure P-3 wherein Hon'ble the Supreme Court had extended the concession of regular bail to co-accused Ramesh Kumar on account of his long incarceration and it was this co-accused from whom the



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alleged recovery was effected.

3. Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions, has not disputed the stage of trial and has conceded that none of the 39 prosecution witnesses have been examined after the charges were framed on 20.11.2023. She has also not disputed the contention of the learned counsel and the contents of the zimni orders which have been placed on record by the learned counsel for the petitioner as Annexure A-1 that the case was being repeatedly adjourned by the learned Trial Court for reasons not attributable to the petitioner but on account of irregular appearance of the prosecution witnesses and for reasons attributable to the prosecution and prosecution alone. However, learned State counsel submits that the petitioner is involved in 03 other cases under the NDPS Act and 02 cases under the IPC in the States of Haryana, Jharkhand and Lucknow. Learned State counsel on further instructions has also not disputed the custody period of the petitioner as also the factum of no recovery of any contraband having been effected from the petitioner on his arrest.

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

5. 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



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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. As not disputed, investigation in the case at hand is complete and after the charges were framed the trial has not proceeded any further and rather has come to a virtual standstill. The prime accused in the case at hand i.e. Ramesh Kumar has already been extended the concession of bail vide Annexure P-3 by Hon'ble the Supreme Court on account of his long incarceration. 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.

05.07.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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